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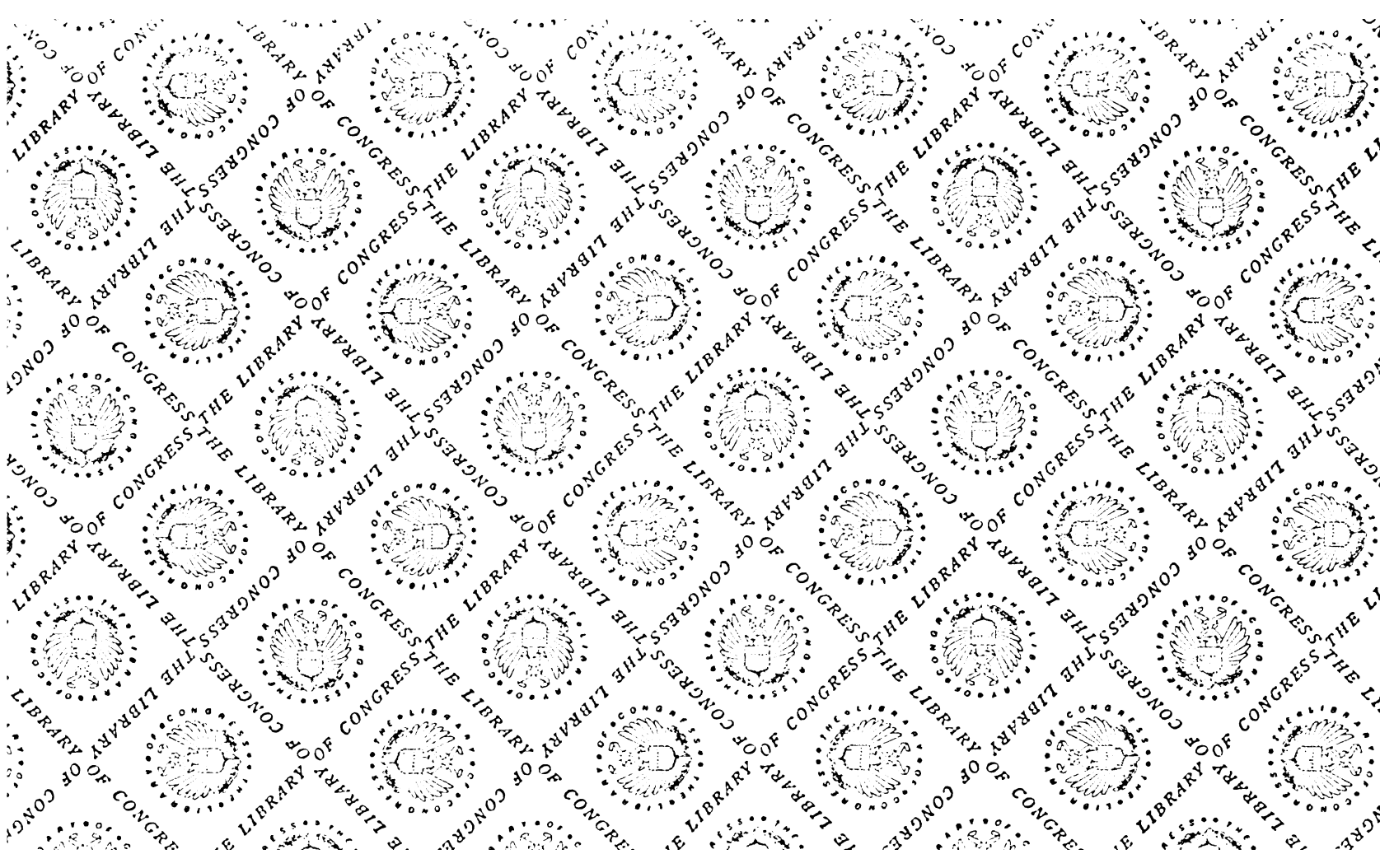
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NATIONAL ARBITRATION BILL.

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HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON LABOR

OF THE

HOUSE OF REPRESENTATIVES,

MARCH 16, 30, APRIL 6, 13, 1904.

SUBCOMMITTEE NO. 1, FIFTY-EIGHTH CONGRESS.

EDWARD B. VREELAND, N. Y., Chairman.

DAVID J. FOSTER, Vt.	JOHN W. MADDOX, Ga.
JAMES P. CONNER, Iowa.	WILLIAM HUGHES, N. J.

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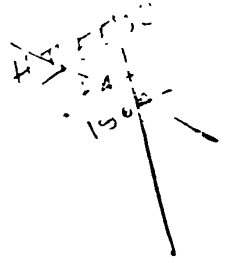

MEMBERS OF COMMITTEE ON LABOR,

FIFTY-EIGHTH CONGRESS.

JOHN J. GARDNER, N. J., Chairman.

RICHARD BARTHOLDT, Mo.	HERMAN P. GOEBEL, Ohio.
SAMUEL W. McCALL, Mass.	BEN F. CALDWELL, Ill.
EDWARD B. VREELAND, N. Y.	GEORGE G. GILBERT, Ky.
DAVID J. FOSTER, Vt.	JOHN W. MADDOX, Ga.
JAMES P. CONNER, Iowa.	WILLIAM RANDOLPH HEARST, N. Y.
B. F. SPALDING, N. Dak.	WILLIAM HUGHES, N. J.

JOHN G. SHREVE, Clerk.

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WASHINGTON, D. C., *March 16, 1904.*

The subcommitte met at 10.30 o'clock a. m.

Present: Representatives Vreeland (chairman), Foster, Connor, and Hughes.

The CHAIRMAN. Mr. Whitney, we will be glad to hear you now.

STATEMENT OF FRED. B. WHITNEY, CLERK OF HOUSE COMMITTEE ON NAVAL AFFAIRS.

Mr. WHITNEY. Mr. Chairman, I wish to appear before you in favor of the bill H. R. 9491, a bill to create a national arbitration tribunal and to define the duties and powers thereof.

BIRD'S-EYE VIEW OF BILL.

I will give you a bird's-eye view of the bill. The bill creates a national arbitration tribunal of six members, appointed by the President, to be free from direct or indirect pecuniary interest in matters arbitrated, to sit at Washington or elsewhere, as expedient, and arbitrate controversies concerning wages, hours of labor, or conditions of employment involving any commerce with foreign nations among States or Territories of United States when either party to the controversy files a petition of claims and demands, requesting investigation and agreeing to abide by decisions on merits. The tribunal transmits petition to other party requesting an answer thereto, and if refused, petition of claims is made public. If answered, the tribunal determines controversy on merits by definite affirmative or negative decision. If parties accept decision, the record is not made public unless both parties consent. If either party neglects or refuses to abide by agreements, all proceeding are made public.

TRIBUNAL MAY REQUEST BUT NOT COMPEL ARBITRATION.

The tribunal may request but not compel parties to controversy to arbitrate. During arbitration both parties assume former relations. Public opinion is the only source of jurisdiction and enforcement of an arbitration of controversy on merits under this bill.

I would like to ask here that the entire bill may be incorporated in the report of this hearing, so that my remarks may be clearly understood.

The CHAIRMAN. That will be done.

[H. R. 9491, Fifty-eighth Congress, second session.]

A BILL to create a national arbitration tribunal and to define the duties and powers thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be created a national arbitration tribunal, to consist of six members, one of whom as member ex officio shall be the Secretary of Commerce and Labor, and the other members thereof shall be appointed by the President, by and with the advice and consent of the Senate. The members of the tribunal first appointed under this act shall continue in office for the terms of two, three, four, five, and six years, respectively, from the first day of July, anno Domini nineteen hundred and four, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed by the President only for the unexpired term of the member whom he shall succeed. Any member of the tribunal may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. No vacancy in the tribunal shall impair the right of the remaining members thereof to exercise all the powers of the tribunal as conferred by this act: *Provided*, That at least three of the appointive members of said tribunal shall constitute a quorum necessary for the transaction of business. The Secretary of Commerce and Labor, who shall be a member ex officio of the tribunal, shall have the same powers and perform the same duties as the other members of the tribunal, but shall not have the power to cast a vote.

Each member of the tribunal, other than the Secretary of Commerce and Labor, appointed in accordance with the provisions of this act, shall receive an annual salary of eight thousand dollars.

SEC. 2. That the tribunal shall without delay, after the appointment of its members, organize by electing a president and a vice-president from among its members. Said tribunal shall employ a secretary, at a salary of four thousand dollars per annum, and such clerks and other employees for both temporary and permanent service as may be necessary, and such secretary, clerks, and employees shall perform such duties as said tribunal shall direct; and said tribunal shall have the power to discharge such persons so employed as it may deem expedient. Each of the members of the tribunal and its secretary shall take an oath, before a justice of the Supreme Court of the United States, to support the Constitution of the United States, and to honestly, fairly, and faithfully perform his duties as such officer.

No member of the tribunal and no employee or agent of said tribunal shall accept, in addition to his salary, any perquisite or gratuity of any kind whatsoever from any corporation, association, partnership, or individual in any way interested in any matter or thing pending or about to be brought before the tribunal in accordance with the provisions of this act. The accepting of such perquisite or gratuity by any of the persons mentioned from any corporation, association, partnership, or individual shall be deemed a misdemeanor, and the person guilty of such accepting shall be punished by a fine not exceeding five thousand dollars, or by imprisonment for not more than two years, or both, in the discretion of the court having jurisdiction of the offense: *Provided, however*, That no member of said tribunal shall take part in the consideration or determination of any controversy or petition in which he has any direct or indirect pecuniary interest, or when he has any such interest in either of the parties thereto. And in case that any member of the tribunal shall be so disqualified in any particular case, the president of the United States shall appoint some disinterested person to take the place of such member for the particular case in question, and such temporary appointee shall be paid at the same rate during his term of service as are the members of the tribunal, and his expenses shall be similarly paid.

The tribunal shall prepare and adopt an official seal, which, when approved by the President of the United States, shall be the seal of the tribunal.

The regular and permanent place of meeting of the tribunal shall be the city of Washington, in the District of Columbia; but the tribunal may hold its meetings elsewhere in the United States, temporarily, when it may deem it expedient so to do.

There shall be assigned to the tribunal by the Secretary of Commerce and Labor suitable rooms, vaults, furniture, and fixtures, with the necessary fuel, lights, and other proper conveniences for the transaction of the business of the tribunal.

SEC. 3. That whenever there shall arise a controversy within the United States concerning wages, hours of labor, or conditions of employment between employer or employers, being an individual, partnership, association, corporation, or other combination, and his, their, or its employees, or any association or combination of such employees, in which controversy a strike or lockout is threatened or exists, and in which controversy there is involved any commerce with foreign nations, or among

the several States, or with the Indian tribes, or when such controversy arises within any of the Territories of the United States or the District of Columbia, it shall be competent and lawful for either party to such controversy to present to the tribunal a petition setting forth plainly and fully the claims and demands of said party in the particular case in question, which petition shall be made on a blank form in accordance with rules which shall be made in pursuance of this act by said tribunal, which forms shall, on application being made therefor by either party, be furnished to the same, without expense, by the tribunal; and such petition shall be duly sworn to by the party complaining, in accordance with the rules made in pursuance of this act. The petition, in addition to setting forth plainly and fully its said claims and demands, shall in substance be a request to the tribunal to investigate all matters involved therein, and to render a decision on the merits of the said claims and demands, in accordance with the provisions of this act; and said petition shall express also a full agreement, in such form as shall be prescribed by said rules, on the part of the parties to said agreement to accept and abide by the decision of said tribunal as to the matters involved in said petition, and to accept said decision as a final and binding award upon the parties thereto, and to accept and submit to all the powers and authority of said tribunal as expressed in this act, and to all the rules and regulations made in pursuance thereof. And the tribunal may require that the terms of submission to such arbitration shall include an agreement as to the length of time for which the award of the tribunal shall remain in force: *And provided*, That the tribunal, in its discretion, deems the petition and subject-matter involved therein to be such as to warrant the exercise of its functions in relation thereto, it shall then be the duty of the tribunal, within a reasonable time after it shall have received the petition, to transmit, in such manner as may be prescribed by the rules of the tribunal, a true copy of the same to the other party to the controversy, requesting said other party to make a sworn answer thereto within a number of days, to be determined by the rules of the tribunal, and if said other party shall neglect or refuse to make said answer within such number of days and to submit the matters in controversy to the arbitration of the said tribunal in the form and manner above described, and to agree in such form and manner to accept and abide by the decision of the tribunal as to the matters involved in the said petition, the petition shall be made known to the public by the tribunal as provided hereinafter: *Provided, however*, That said tribunal shall have the power to correct said petition in such manner as to secure a clear and definite presentation of the case involved without, however, changing the substance of said petition.

SEC. 4. That if said other party, as named and described in the foregoing section, shall make a complete and full sworn answer to the petition therein provided for and shall so submit in such manner and form said controversy to the arbitration of the Tribunal and shall so agree to accept and abide by the decision of the tribunal as to the matters involved in the said petition and answer, then the tribunal shall without delay proceed in accordance with the provisions of this act and the rules thereunder which it shall hereafter adopt to investigate privately (unless both parties consent to a public investigation) the matters and things involved in the said controversy, determine the merits of the same on the basis of right and equity, and render its decision thereon, which decision shall be definitely and distinctively an affirmative or negative decision on each of the claims of both parties to the controversy, respectively: *Provided, however*, That said tribunal, of its own motion, may also make additional findings and recommendations for the purpose of adjusting such controversy.

And if the parties to the controversy shall accept the decision of the tribunal thereon rendered, and act in accordance therewith, then the petition, the answer, the testimony, and the entire record of the tribunal in relation to the controversy shall be held and kept private forever and shall not be made public by the tribunal without the consent of both parties to the arbitration; and such consent shall be expressed to the tribunal in accordance with the rules which it shall hereafter adopt. If such consent is so expressed, then the petition, the answer, and so much of the testimony and the record of the proceedings of the tribunal in relation to the controversy as the tribunal shall deem best shall be made public as hereinafter provided. If one of the parties to the controversy having agreed to accept the decision of the tribunal and to act in accordance therewith neglects or refuses so to act, the petition, the answer, and so much of the testimony and of the record of the proceedings of the tribunal in relation to the controversy as the tribunal shall deem best shall be made public as provided hereinafter: *Provided, however*, That the approval of the consenting party to such publication shall be expressed to the tribunal in accordance with the rules which it shall hereafter adopt: *And provided also*, That such consenting party acts in accordance with the decision, or in good faith endeavors or offers so to do. If both of the parties to the contro-

versy, having agreed to accept the decision of the tribunal and act in accordance therewith, neglect or refuse so to act, the petition, the answer, and so much of the testimony of and of the record of the proceedings of the tribunal in relation to the controversy as the tribunal shall deem best shall be made public as provided hereinafter. Each of the parties to the controversy shall have the right, at any time while the tribunal is investigating the matters and things involved in the same and before its decision is finally announced, to modify or otherwise amend (subject to the rules of said tribunal) any of its claims theretofore presented to the tribunal; and thereupon such proceedings shall be had as may be provided for by the rules of the tribunal.

SEC. 5. That whenever it shall appear to the tribunal that there exists in the United States a controversy concerning wages, hours of labor, or conditions of employment between an employer or employers, being an individual, partnership, association, corporation, or other combination, and his or their employees, or any association or combination of his or their employees, in which controversy a strike or lockout is threatened or exists, and in which controversy there is involved any commerce with foreign nations, or among the several States, or with the Indian tribes, or when such controversy arises within any of the Territories of the United States or the District of Columbia, it shall be competent and lawful for the tribunal to request both of the said parties to such controversy to submit in writing their respective claims and demands to arbitration and accept and abide by the decision of the tribunal as to the matters involved in the said controversy in accordance with the foregoing provisions of this act and with the rules made thereunder, which decision shall be definitely and distinctly an affirmative or negative decision on each of the claims of both parties to the controversy, respectively: *Provided, however*, That said tribunal, of its own action, may also make additional findings and recommendations for the purpose of adjusting such controversy. The said tribunal shall keep a record of all requests so made, and in the event of neither of the said parties replying and acceding to a request so made, a record of such fact shall be made and kept and published in the manner provided in section seven of this act. In the event of but one of the said parties replying and acceding to a request so made, the same action shall be taken by said tribunal as is provided for similar cases in section three and four of this act: *Provided, however*, That in all cases under this act if any party against whom a petition is brought or to whom such request of the tribunal as provided in this section is made believes that the controversy is one which is not within the jurisdiction of the tribunal, or one which for any reason the tribunal should not take cognizance of, such party may first present a preliminary answer setting forth such belief and the facts upon which it is based, which preliminary answer shall be considered by the tribunal, and said tribunal shall then take such further action in view thereof and under the provisions of this act as to the dismissal of further consideration of the case as the tribunal shall deem just and equitable.

SEC. 6. That during the pendency before the tribunal of any petition and answer thereto or claims and demands submitted in accordance with the provisions of section five of this act the parties having made such petition and answer, respectively, or having so submitted such claims and demands, shall refrain from ordering or participating in any strike or lockout, and shall resume and continue their former relations with each other as though no controversy existed between the said parties. If at any time during the pendency before the tribunal of any petition and answer thereto, or claims and demands submitted in accordance with the provisions of section five of this act, one of the said parties shall refuse or neglect to refrain from ordering or participating in any strike or lockout, and shall refuse or neglect to resume such former relations with the other party as though no controversy existed between the said parties, then the proceedings of the tribunal in relation to the controversy shall be terminated, and thereupon the petition, the answer, and as much of the testimony and of the record of the proceedings of the tribunal in relation to the controversy as the tribunal shall deem best shall be made public as provided hereinafter: *Provided, however*, That the approval of the consenting party to their being so made public shall be expressed to the tribunal in accordance with the rules which it shall hereafter adopt: *And provided further*, That if, in the opinion of the tribunal, either party shall use any of the provisions of this section for the purpose of unjustly maintaining a given condition of affairs through delay, the said tribunal may, in its discretion, exempt the other party to said controversy from the operations of this section. If at any time during the pendency before the tribunal of any petition and answer thereto, or of claims and demands submitted in accordance with the provisions of section five of this act, both of said parties shall so refuse or neglect to refrain from ordering, commencing, or participating in any such strike or lockout, all the proceedings of the tribunal in relation to the controversy shall be terminated;

and thereupon the petition, the answer, and so much of the testimony and of the record of the proceedings of the tribunal in relation to the controversy as the tribunal shall deem best, shall be made public as provided hereinafter.

SEC. 7. That the tribunal shall prepare and publish periodically, as it may determine, a bulletin for public circulation, in which shall appear the record of all its decisions as made from time to time and all sworn petitions hereinbefore provided for and duly presented to the tribunal to which no answers shall have been made in accordance with the provisions of this act, and such communications, written correspondence, papers, and documents relating to the subject-matter of said last-named petitions, as the tribunal in its discretion shall determine, and all requests made by the tribunal in accordance with the provisions of section five of this act, and also the petitions, answers, and so much of the testimony and of the records of proceedings as the tribunal shall deem best, and the publication of which is authorized under the provisions of sections four and five of this act.

SEC. 8. That the parties to a controversy shall be entitled to be represented before the tribunal in such manner as shall hereafter be determined by the tribunal in such rules of procedure as it may adopt. The decision of the tribunal on any controversy shall relate to the controversy as it existed on the date of the filing of the petitions, and shall be operative as of that date: *Provided*, That if said tribunal shall find that the conditions involved in the controversy have materially changed subsequent to the filing of the petition, said tribunal may modify its decision so that said decision, when rendered, shall, in equity and justice, be in accordance with such change in conditions.

SEC. 9. That the tribunal or any one member thereof shall have power to administer oaths or affirmations and to sign subpœnas, and for the purposes of this act said tribunal shall have power to require by subpœna the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation; such attendance of witnesses and the production of such documentary evidence as may be required from any place in the United States at any designated place of hearing. And in case of disobedience to the subpœna the tribunal may invoke the aid of any court of the United States in requiring such attendance and testimony of witnesses and such production of books, papers, tariffs, contracts, and agreements. Any circuit court of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpœna issued subject to the provisions of this act to any person, issue an order requiring such person to appear before said tribunal and produce books and papers if so ordered, and give evidence touching the matter in question, and any failure to obey such order of the court may be punished by such court as a contempt thereof. No person shall be excused from attending and testifying, or from producing books, papers, tariffs, contracts, agreements, and documents before the tribunal or in obedience to the subpœna of the same, whether such subpœna be signed or issued by one or more members of the tribunal, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before said tribunal or in obedience to its subpœna or the subpœna of any one of the members thereof, or in any case or proceeding: *Provided further*, That no person so testifying shall be exempt from prosecution and punishment for the perjury committed in so testifying. The witnesses summoned before the tribunal shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States.

Upon the request of the tribunal it shall be the duty of any district attorney of the United States to whom said tribunal may apply to institute in the proper court and to prosecute, under the direction of the Attorney-General of the United States, all necessary proceedings for the enforcement of the provisions of this section, and for the punishment of all violations thereof, and the costs and expenses of such prosecutions shall be paid out of the appropriations for the expenses of the courts of the United States.

The testimony of any witness may be taken, at the instance of a party in any proceeding or investigation pending before the tribunal, by deposition at any time after a cause or proceeding is at issue on petition and answer. The tribunal may also order testimony to be taken by deposition in any proceeding or investigation pending before it at any stage of such proceeding or investigation. Such depositions may be taken before any judge of any court of the United States, or any commissioner of a circuit or any clerk of a district or circuit court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county

court or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties nor interested in the event of the proceeding or investigation. Reasonable notice must first be given in writing by the party of his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the tribunal as hereinbefore provided.

Every person deposing as herein provided shall be cautioned and sworn (or affirm, if he so request) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the officer taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the tribunal or agreed upon by the parties by stipulation in writing to be filed with the tribunal. All depositions must be promptly filed with the president.

Witnesses whose depositions are taken pursuant to this act, and the magistrate or other officer taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

SEC. 10. That the tribunal, or its duly appointed agents, may, whenever it deems it expedient, after an agreement for arbitration between the parties to the controversy has been made, enter and inspect any institution, establishment, factory, workshop, or mine belonging to either party, and may employ competent experts to examine the accounts, books, and official reports of either party, and to examine and report on any matter material to the investigation, but shall not disclose such reports or the results of said inspection or examination under this section without the consent of both the parties to the controversy, except as provided in section four of this act.

SEC. 11. That the tribunal may, from time to time, make such rules and orders not inconsistent with this act as may be deemed proper for the regulating and conducting of its investigations and proceedings, and for the providing of blank forms for petitions and all other necessary blank forms, and for making petitions and answers, and for the prescribing of the method of serving copies of petitions, notices, and all other papers upon the parties, or a party, to any controversy of which ft shall take cognizance under the provisions of this act, and from time to time may make such other rules as may be necessary for the proper enforcement of this act.

SEC. 12. That the tribunal shall make an annual report to Congress at the commencement of its regular session.

SEC. 13. That all expenses of the tribunal, including all necessary expenses for transportation incurred by the members thereof, or by its employees under its orders, in making investigations under this act, or upon official business in any other places than the city of Washington, salaries of employees and agents, and fees and mileage of witnesses shall be allowed and paid upon the presentation of itemized vouchers therefor, approved by the president of the tribunal.

SEC. 14. That a decision by a majority of the voting members of the tribunal engaged in the consideration of a case shall constitute a decision of the tribunal. In cases where either of the parties has in a previous controversy failed or refused to abide by the award of the tribunal, and in such other cases as the tribunal shall deem to be exceptional in their nature, the tribunal may, in its discretion, require that both parties to the controversy file with the tribunal a proper bond conditioned for the performance of the award of the tribunal, made payable each party to the other party in the sum fixed by the tribunal, and in case the conditions of said bond be broken by either party, the penalty shall be forfeited to the other party and shall be recoverable in an action at law in any court of the United States in the district where the plaintiff resides, and an order of the tribunal declaratory of such forfeiture shall be taken and held as prima facie evidence thereof.

No new petition between the same parties and upon the same subject of controversy shall be received or acted upon within less than one year after the rendering of a decision by said tribunal as between such parties and on such subject-matter except with the concurrence of both of such parties.

SEC. 15. That whenever a controversy of such special character or difficulty arises as to call for such action as hereinafter set forth, it shall be lawful for the President of the United States, in his discretion, and it shall be his duty when so requested by the tribunal, in its discretion, to appoint, without confirmation by the Senate, two additional persons as members of said tribunal for the purposes of such particular controversy. The tribunal so enlarged shall have, for all the purposes of said controversy, all the powers and duties hereinbefore set forth, except the power of fur-

ther enlargement and except that four appointive members shall then constitute the necessary quorum for the transaction of business. The two additional members shall be paid at the same rate as the other members for the time of their service until final award and decision, and their expenses as such members shall be similarly paid.

In any controversy of minor importance the tribunal, in its discretion, may delegate to any member thereof the power and duty of hearing and considering the same and of making an award thereon, subject, however, to a right of appeal, under such rules as the tribunal may prescribe, in favor of either party, to the full tribunal, and such appeal may relate to and include the award or the facts upon which it is based, or both.

SEC. 16. That this act shall take effect upon its passage.

Mr. CONNOR. Is that the bill introduced by Mr. Foss?

Mr. WHITNEY. Yes.

Now, Mr. Chairman, I wish to make a few remarks in relation to this subject. The coal arbitration commission recommended some form of arbitration for these troubles, and Mr. Volney W. Foster, of Evanston, in Mr. Foss's district, took up the subject and consulted with a great number of people. This bill is the result of conferences and communications with several hundred leading labor men, unionists, bankers, industrial leaders, Congressmen, and Senators.

The CHAIRMAN. Whom do you represent, Mr. Whitney, I will ask, in order that it may be put down?

Mr. WHITNEY. I represent myself.

The CHAIRMAN. Have you not had a good deal of correspondence with many——

Mr. WHITNEY. I am a graduate of the Williams College and also the Northwestern University. I have always taken a great deal of interest in economics and sociological studies. Mr. Foss had the bill to introduce, and I did considerable work on it and got interested. The bill came down here and went to sleep, as I know things often do in committees, being a committee clerk myself, and I went to work and wrote to some people to see what interest there was in the subject. I found such a lively interest in the matter that I came here, and when I heard you were to have a hearing I asked to be present.

Mr. FURUSETH. May I ask the gentleman a question?

The CHAIRMAN. Yes, sir.

Mr. FURUSETH. Mr. Whitney, do you mind mentioning some of the labor men——

Mr. WHITNEY. I will, presently; quite a number of them.

FOUR CLASSES INTERESTED IN ARBITRATION.

Mr. Chairman, I divide the people who are interested in this matter into four classes. First come those, both the laboring and capital classes, that desire no interference, and prefer to settle their troubles by strikes and lockouts and boycotts and blacklisting, etc. I do not wish to talk on that subject at all. Second, those who desire compulsory arbitration on both sides. Third, those who desire voluntary arbitration on both sides; and, fourth, those who wish to go along under the existing conditions.

COMPULSORY ARBITRATION IMPOSSIBLE UNDER CONSTITUTION.

On the subject of compulsory arbitration I do not think it is useful to speak very long, because it is an impossible thing under the Federal Constitution. I have here the views of Patrick Lally, secretary of the

Bricklayers and Masons' International Union of Massachusetts; that is, the State board.

Mr. CONNOR. That is the name of my partner.

Mr. WHITNEY. He believes in compulsory arbitration, and this is a resolution that I believe he introduced at Trenton. I think the position of those of the labor unionists that believe in compulsory arbitration is clearly set forth in this document, which I will present to you. He says:

LABOR UNIONIST VIEWS AND SIXTEEN REASONS FOR COMPULSORY ARBITRATION.

First. The very important fact has been demonstrated that wherever compulsory arbitration is in force the great mass of people are satisfied, particularly the trade unionists.

Second. The brutal strike and more brutal lockout is abolished.

Third. Wages, hours, and general conditions are so fixed that manufacturers can make contracts ahead without fear, thereby insuring more uniform conditions than at present.

Fourth. When workingmen are sure that they can not be cut down in their wages it gives them more courage and independence, under which circumstance they will be more likely to marry, settle down, build houses, etc., thereby civilizing instead of brutalizing.

Fifth. When a dispute arises new terms are fixed, the industry going on just the same.

Sixth. The awards of arbitration courts are generally accepted and followed by other courts, thus making our members partners in the most advanced court in the country, thereby raising us correspondingly in the eyes of the great mass of people.

Seventh. Compulsion in the background makes conciliation a great deal easier. This very important fact should not be overlooked.

Eighth. Compulsory arbitration gives the public, who are the real arbitrators, the true facts of every dispute.

Ninth. Peaceful settlements of disputes could not be blocked or thwarted for the purpose of breaking up the union, thereby abolishing the strike breaker and professional scab.

Tenth. D. M. Parry, for instance, would be compelled to appear before a board constituted equally of union men and employers, and there show all the records of his transactions, and, further, he would be compelled to recognize the findings of the board.

Eleventh. Labor and capital would find their true relationship instead of being mobs and monopolists.

Twelfth. Humane business men can save themselves from destruction by forcing sweatshops to recognize fair living rules or go out of business.

Thirteenth. The distribution of wealth will be determined along the lines of reason, justice, and the greatest need instead of brute force, injustice, and the greatest greed.

Fourteenth. It is the only cheap, speedy, effective, and practical way of receiving justice.

Fifteenth. It will compel all the workingmen and women who do not want to remain at the mercy of the employers to form unions, as it is only through such that they can have any standing before the adjudication board. This fact should be particularly borne in mind when discussing this question.

Sixteenth. By having a certain number of our own members sitting on a board a better understanding of our rights and a more tolerant disposition toward us will immediately follow, and instead of being looked upon as strike advocates and disturbers in general we will be looked upon as the representatives of a powerful organization, thereby breaking down the framework of centuries of oppression, prejudice, bigotry, and falsehood that has been persistently raised up against us through various channels.

The word compulsion is taken advantage of to frighten people away from the merits of this question. We should never allow ourselves to be thrown into spasms of delight on the one hand or fear on the other at the mention of a name. What we should and must do is to clear our minds and look carefully, straight and true at this question and its possible consequences. The history of trade unionism proves

conclusively that we are gradually evolving from the individual to the group. As the individual could accomplish nothing the union has taken his place, securing just and reciprocal agreements as such. Therefore it would be manifestly unfair for us to refuse to submit our disputes to a fair court.

The CHAIRMAN. Whose synopsis of opinion is that?

Mr. WHITNEY. It is the opinion of Patrick Lally, State secretary of the Bricklayers and Masons' International Union, of the State of Massachusetts.

He believes and he practically says that his organization is in advance of this movement, and that he believes in compulsory arbitration. But as that is impossible under the Federal Constitution, I will not dwell on that longer, but will take up the voluntary arbitration feature which is set forth in the bill H. R. 9491.

Mr. FURUSETH. May I be permitted to disturb you for one second?

Mr. WHITNEY. Yes, sir.

Mr. FURUSETH. You say that under the Federal Constitution compulsory arbitration would be impossible?

Mr. WHITNEY. Impossible; yes, sir.

Mr. FURUSETH. I suggest to you the reading with care of the Supreme Court decision in the case of Robert Robertson et al. *v.* Baldwin, rendered in 1896, I think. That is the only decision in which there has been any construction given to the thirteenth amendment to the Constitution.

Mr. WHITNEY. Mr. Chairman, I have here the views of a great many labor people, who are, of course, vitally interested in this matter.

SOME VIEWS OF LABOR UNION LEADERS FOR ARBITRATION.

E. E. Clark, grand chief conductor, Order Railway Conductors, Cedar Rapids, Iowa, says:

A great deal is to be expected from provisions for publicity in these matters. Shall watch with great interest.

W. S. Stone, Grand International Brotherhood of Locomotive Engineers, Cleveland, Ohio, says:

The plan for a national arbitration tribunal is very good. It should provide for a practical railroad man being a member of the board.

Here is one from Alexander H. Revell, of Chicago, one of the largest merchants in the West:

I approve. Believe the matter will appeal to the laboring, financial, business, and manufacturing industries of the nation. Because there is plenty there should be peace. There should be a better and higher brotherhood, and if such parties, each needing the other, should each disagree, then let a third party of highest possible dignity and honor come in and say which is the best and right way.

Here is a communication from Frank Duffy, general secretary of the United Brotherhood of Carpenters and Joiners of America:

To begin with, I have always been in favor of arbitration for the settlement of industrial disputes, but not of compulsory arbitration. There can not be arbitration where there is compulsion. Whatever means may be adopted in the future to bring about peace, harmony, and tranquillity in the industrial field should be voluntary in order to be effective and lasting

The United Brotherhood of Carpenters and Joiners of America, an organization consisting of 175,000 skilled men in the art of carpentry, believe in voluntary arbitration. Many other national and international organizations of labor do likewise, and even go so far as to have provisions to that effect in their general laws.

The success of any form of arbitration depends to a large extent on the willingness

of the parties involved to submit their case to an impartial tribunal for adjudication and to accept the award when rendered in a spirit of fairness, without prejudice or ill feeling, and abide by its provisions.

Now, that the employers of labor are combining, organizing, and federating there should be very little difficulty experienced in bringing about a feasible plan of arbitration, so that the strikes, lockouts, boycotts, and the consequent hardships and privations they entail may be a thing of the past, never to come to the surface again.

If this can be done by the proposed bill, known as H. R. 9491, you will be accomplishing greater good for the well-being and protection of the American working people than that which was accomplished by our forefathers in days gone by in throwing off the yoke of England and proclaiming freedom and liberty to all who owed allegiance to the Stars and Stripes.

I hope your bill will be so framed, altered, or amended that it may fully meet the ends for which it was intended—a fair, square deal to all.

Mr. W. H. Clock, secretary-treasurer of the International Shingle Weavers' Union of America, says:

I am in favor of such a measure, as anything that tends toward industrial peace is greatly needed. Anyone that would refuse to arbitrate before a tribunal that had been appointed by an unbiased President should have their affairs given the fullest publicity. I am under the impression, though, that the salaries fixed for the members of the board are out of reason. Brains may come high, but I can cite you several of the most profound thinkers in the world that are not drawing half that salary.

Walter A. Clarke, secretary-treasurer of the Rhode Island Federation of Labor, says:

I am heartily in favor of same and shall bring it before the executive board of the R. I. F. of L., etc.

Here is a letter from Mr. William Launer, secretary of the Glass Bottle Blowers' Association of the United States and Canada:

I am thoroughly convinced this is a good bill and, if passed and it becomes a law, I am sure that if the provisions of the bill were carried out, as no doubt it is intended they should be, a good deal of the trouble between labor and capital could be adjusted.

He thinks, as does Mr. Clock, that the salaries are too large.

Here is a letter from Mr. James H. Morris, president of the Peoria Local Union of Retail Clerks:

I find that it is a bill that if passed without any alterations or amendments would create worlds of good to either capital or labor, or for any purposes the tribunal is appointed.

Mr. G. A. Hunter, secretary of the Trades and Labor Council, of Lasalle, Ill., says:

Would say that after a careful consideration of the bill to create a national arbitration tribunal, our body indorses the same and would earnestly recommend its passage.

Here is one from J. H. Strief, secretary-treasurer of the Iowa State Federation of Labor:

I have read the provisions in the bill pretty thoroughly and assure you I do not hesitate in approving such a policy to be adopted as part of the functions of our National Government. I am for peace in all matters wherever possible, and I always advocate strongly the avoidance of a strike wherever possible in the settlement of labor troubles.

All well-regulated trades union organizations always stand ready to arbitrate any difficulties that may arise; but sometimes the opposition will not arbitrate, contending that there is nothing at issue to be arbitrated. With a national arbitration tribunal, as outlined in this bill, both sides to a controversy would be duty bound to arbitrate in case an adjustment can not be reached in a different manner.

I suppose it is the intention, should this bill become a law, in selecting the members of this tribunal to have some members thereon that are reasonably well versed in labor conditions throughout the jurisdiction; composed somewhat, I should say,

as was the tribunal selected by President Roosevelt in the anthracite miners' trouble of recent date.

I have often thought that a tribunal as outlined in this bill was one of the pressing needs of this country, and the more I have thought of it the more I am convinced that it would be a good thing. The amount of strife it would do away with and the enormous saving it would make to both employer and employee in the settlement of questions without strikes is hard to estimate, but judging from past experiences the amount would be very large.

I have several more of these letters that I will file, all of them being in the same line.

NATIONAL BUSINESS LEAGUE FAVORS BILL.

Here is one from the National Business League, which is a national organization and has a committee of the largest merchants in every State in the Union. There is a list of them on the back of the letter. This letter is from the secretary, Austin A. Burnham.

The CHAIRMAN. Are they employers or employees?

Mr. WHITNEY. Those other letters I have been quoting from were from labor unions favoring bill. These, now, are from the employers. Mr. Burnham states:

I beg to state that the bill in question has my hearty approval.

It is clearly evident that the best interests of employer and employee are so identical in all the various activities of industries and commerce that the one, either individually or through the agency of organized bodies, can not ignore, oppress, or in any way hamper the other except to the detriment of both and to the serious injury of all the people.

It is clearly manifest also that drastic measures for the settlement of labor disputes never win. Adjustment of differences under such procedure are but apparent, not real. The sting of compulsion remains to smolder awhile, then breaks out afresh with renewed power. Therefore a cordial welcome to the Foster bill, which would eliminate from all industrial dissensions the imperious commands "You shall" or "You must," and frankly invites the employer and employee—coworkers to a common end—to submit their differences to a tribunal of their unprejudiced fellowmen, appointed and proffered by the National Government to make such fair and peaceful settlement of industrial disputes as will conserve the best interests, preserve the self-respect, and insure the uninterrupted prosperity and happiness of all concerned.

I wish I could call the committee's attention to the members of the advisory committee of this National Business League. They are the largest employers and merchants in the United States.

National Advisory Committee, National Business League.

C. G. Abercrombie, president, The Montgomery Brewery, Montgomery, Ala.
Alexander Rice, wholesale and retail clothier, Montgomery, Ala.
W. F. Vandiver, W. F. Vandiver & Co., wholesale grocers, Montgomery, Ala.
Morris M. Cohn, ex-president Board of Trade, Little Rock, Ark.
F. B. T. Hollenberg, president Hollenberg Music Company, Little Rock, Ark.
George R. Brown, secretary Little Rock Board of Trade, Little Rock, Ark.
M. J. Keller, M. J. Keller Company, men's furnishing goods, Oakland, Cal.
Gen. Harrison G. Otis, president The Times-Mirror Company, Los Angeles, Cal.
Hugh Craig, president The Chamber of Commerce, San Francisco, Cal.
P. N. Lilienthal, manager Anglo-Californian Bank, San Francisco, Cal.
I. J. Truman, president Columbian Banking Company, San Francisco, Cal.
Hon. Daniel N. Morgan, ex-Treasurer, United States, Bridgeport, Conn.
C. S. Mersick, president The Merchants' National Bank, New Haven, Conn.
Max Adler, Strouse, Adler & Co., importers and manufacturers, New Haven, Conn.
John Trice, president The Citizens' Bank and Trust Company, Tampa, Fla.
I. S. Giddens, I. S. Giddens & Co., wholesale grocers, Tampa, Fla.
Robert J. Lowry, president The Lowry National Bank, Atlanta, Ga.
Hon. William J. Northen, ex-governor of Georgia, Atlanta, Ga.
James P. Verdery, president Enterprise Manufacturing Company, cotton goods, Augusta, Ga.

J. W. Cabaniss, president The Exchange Bank, Macon, Ga.
I. B. English, English, Johnston & Co., cotton factors, Macon, Ga.
W. E. McCaw, president McCaw Manufacturing Company, cotton-seed products, Macon, Ga.
D. G. Purse, president Savannah Board of Trade, Savannah, Ga.
Horace A. Crane, vice-president Southern Bank, Savannah, Ga.
Edgar D. Harber, president Harber Brothers Company, wholesale farm machinery, Bloomington, Ill.
O. S. Bailey, Bourland & Bailey, Peoria, Ill.
A. S. Oakford, Oakford & Fahnestock, wholesale grocers, Peoria, Ill.
B. Warren, jr., Warren & Co., grain, Peoria, Ill.
Edward J. Parker, cashier State Savings, Loan, and Trust Company, Quincy, Ill.
Chauncey H. Castle, Comstock-Castle Stove Company, Quincy, Ill.
C. H. Williamson, president Chamber of Commerce, Quincy, Ill.
J. D. Waterman, president Forest City National Bank, Rockford, Ill.
C. S. Brantingham, secretary and treasurer Emerson Manufacturing Company, agricultural works, Rockford, Ill.
E. H. Keeler, secretary Rockford Lumber and Fuel Company, Rockford, Ill.
R. F. Herndon, R. F. Herndon & Co., dry goods, Springfield, Ill.
August Brentano, president Southern Stove Works, Evansville, Ind.
Philip C. Decker, president German Bank, Evansville, Ind.
A. C. Rosencranz, president The Vulcan Plow Company, Evansville, Ind.
M. B. Wilson, president The Capital National Bank, Indianapolis, Ind.
Horace E. Kinney, president Board of Trade, Indianapolis, Ind.
John H. Barker, president Haskell & Barker Car Company, Michigan City, Ind.
John T. Remey, president National State Bank, Burlington, Iowa.
J. G. Rounds, president Citizens' National Bank, Des Moines, Iowa.
M. M. Walker, president M. M. Walker Company, commission and grain, Dubuque, Iowa.
W. H. Day, president Standard Lumber Company, Dubuque, Iowa.
F. S. Kretsinger, president The Iowa Farming Tool Company, Fort Madison, Iowa.
C. Hood, president Emporia National Bank, Emporia, Kans.
E. W. Snyder, president Manufacturers' National Bank, Leavenworth, Kans.
W. N. Todd, The Bittmann-Todd Grocer Company, Leavenworth, Kans.
Hon. James. A. Troutman, Troutman & Stone, Topeka, Kans.
W. H. Davis, Parkhurst-Davis Mercantile Company, Topeka, Kans.
Henry Watterson, Louisville Courier-Journal, Louisville, Ky.
F. E. Boothby, president Merchants' Exchange and Board of Trade, Portland, Me.
Hon. Wm. G. Davis, president National Traders Bank, Portland, Me.
Wallace F. Robinson, president Chamber of Commerce, Boston, Mass.
Thos. Strahan, the National Wall Paper Company, Chelsea, Mass.
Chas. H. Conant, president Lowell Board of Trade, Lowell, Mass.
Hon. Chas. S. Ashley, mayor, New Bedford, Mass.
Francke W. Dickinson, ex-president Board of Trade, Springfield, Mass.
Wilder D. Stevens, Foster, Stevens & Co., iron hardware, etc., Grand Rapids, Mich.
W. H. Anderson, president Board of Trade, Grand Rapids, Mich.
Harvey J. Hollister, cashier Old National Bank, Grand Rapids, Mich.
W. H. Withington, president Withington & Cooley Manufacturing Company, Jackson, Mich.
C. C. Billinghurst, cashier The National Lumberman's Bank, Muskegon, Mich.
Thos. Hume, Hackley & Hume, lumber, Muskegon, Mich.
H. M. Peyton, president American Exchange Bank, Duluth, Minn.
W. S. Moore, Spencer, Moore & Co., grain commission, Duluth, Minn.
A. M. Marshall, president Marshall-Wells Hardware Company, Duluth, Minn.
S. A. Harris, president National Bank of Commerce, Minneapolis, Minn.
F. G. Winston, Winston, Farmington & Co., wholesale grocers, Minneapolis, Minn.
H. M. Kinney, manager Winona Wagon Company, Winona, Minn.
Louis Botto, president Natchez Cotton and Merchants' Exchange, Natchez, Miss.
Andrew G. Campbell, president The First Natchez Bank, Natchez, Miss.
S. H. Lowenburg, I. Lowenburg & Co., grocers, cotton factors, Natchez, Miss.
A. D. Brown, Hamilton-Brown Shoe Company, St. Louis, Mo.
Walker Hill, president American Exchange Bank, St. Louis, Mo.
Hon. E. O. Stanard, president E. O. Stanard Milling Company, St. Louis, Mo.
S. H. Burnham, president American Exchange National Bank, Lincoln, Nebr.
J. C. Harpham, president Union Commercial Club, Lincoln, Nebr.
A. T. Richardson, secretary Argo Manufacturing Company, starch, Nebraska City Nebr.

Charles T. Page, treasurer Page Belting Company, Concord, N. H.
Jos. W. Congdon, vice-president Phoenix Silk Manufacturing Company, Paterson, N. J.
Peter Quackenbush, Quackenbush & Co., dry goods, Paterson, N. J.
Edward T. Bell, president First National Bank, Paterson, N. J.
John Scudder, president The First National Bank, Trenton, N. J.
Hon. Gorton W. Allen, Henry & Allen, Auburn, N. Y.
G. H. Nye, president Cayuga County National Bank, Auburn, N. Y.
Edwin D. Metcalf, general manager D. M. Osborne & Co., harvesting machinery, Auburn, N. Y.
C. P. Mosher, Barker, Griswold & Co., clothiers, Auburn, N. Y.
Wm. F. Wendt, president Buffalo Forge Company, Buffalo, N. Y.
Seymour Dexter, president Second National Bank, Elmira, N. Y.
Alexander E. Orr, president Produce Exchange, New York City, N. Y.
Gustav H. Schwab, Oelrichs & Co., New York City.
R. A. Downey, R. Downey & Co., shipping and commission, Oswego, N. Y.
Hon. John D. Higgins, mayor, Oswego, N. Y.
John T. Mott, president First National Bank, Oswego, N. Y.
John Marsellus, president John Marsellus Manufacturing Company, Syracuse, N. Y.
Salem Hyde, Neal & Hyde, wholesale dry goods, Syracuse, N. Y.
E. K. Martin, president Board of Trade, Yonkers, N. Y.
Wm. H. Doty, president The First National Bank of Yonkers, Yonkers, N. Y.
John S. Armstrong, president The National Bank of Wilmington, Wilmington, N. C.
Jas. H. Chadbourn, jr., president The Wilmington Chamber of Commerce, Wilmington, N. C.
F. W. Kerchner, ex-president Chamber of Commerce, Wilmington, N. C.
Geo. W. Crouse, president Aultman, Miller & Co., harvesters, Akron, Ohio.
Michael O'Neil, president and manager The M. O'Neil & Co., dry goods, Akron, Ohio.
W. W. Clark, president The City National Bank of Canton, Canton, Ohio.
J. J. Clark, president the Canton Board of Trade, Canton, Ohio.
Wm. Chisholm, manager Chisholm Steel Shovel Works, Cleveland, Ohio.
Sylvester T. Everett, vice-president The Cleveland Terminal and Valley Railroad Company, Cleveland, Ohio.
Harry A. Garfield, Garfield, Garfield & Howe, Cleveland, Ohio.
H. R. Groff, Childs-Groff Shoe Company, Cleveland, Ohio.
A. E. Adams, secretary the Dollar Savings and Trust Company, Youngstown, Ohio.
Henry Wick, president the Ohio Steel Company, Youngstown, Ohio.
Geo. L. Fordyce, Geo. L. Fordyce & Co., dry goods, Youngstown, Ohio.
W. A. Graham, president the First National Bank, Zanesville, Ohio.
John Hoge, Schultz & Co., soaps, Zanesville, Ohio.
A. H. Devers, Closset & Devers, manufacturers and importers, Portland, Oreg.
H. Wittenberg, vice-president Portland Cracker Company, Portland, Oreg.
Robert E. Wright, president Allentown National Bank, Allentown, Pa.
J. Frank Black, president Chester National Bank, Chester, Pa.
S. Greenwood, real estate, insurance, Chester, Pa.
Wm. Spencer, president the First National Bank, Erie, Pa.
Edward Bailey, president Harrisburg National Bank, Harrisburg, Pa.
Chas. A. Disbrow, president and manager Harrisburg Boot and Shoe Manufacturing Company, Harrisburg, Pa,
Richard M. Reilly, president Board of Trade, Lancaster, Pa.
E. C. Felton, president the Pennsylvania Steel Company, Philadelphia, Pa.
J. H. Michener, president the Bank of North America, Philadelphia, Pa.
William T. Rolph, manager R. G. Dun & Co., Philadelphia, Pa.
H. J. Heinz, president H. J. Heinz Company, Pittsburg, Pa.
Asher Miner, vice-president Miner-Hillard Milling Company, Wilkesbarre, Pa.
John B. Coryell, president Lycoming National Bank, Williamsport, Pa.
S. T. Foresman, president Bowman-Foresman Company, lumber, Williamsport, Pa.
J. B. Duble, president Williamsport Board of Trade, Williamsport, Pa.
Henry B. Metcalf, manufacturer and banker, Pawtucket, R. I.
W. A. Clark, president the Carolina National Bank, Columbia, S. C.
W. B. Lowrance, Lorick & Lowrance, general merchants, Columbia, S. C.
D. B. Loveman, D. B. Loveman Company, dry goods, etc., Chattanooga, Tenn.
C. V. Brown, president Chamber of Commerce, Chattanooga, Tenn.
H. L. Armstrong, cashier Continental National Bank, Memphis, Tenn.
F. W. Brode, president F. W. Brode & Co., Memphis, Tenn.
A. G. Ryley, president H. Wetter Manufacturing Company, Memphis, Tenn.
C. W. Schulte, president the First National Bank, Memphis, Tenn.
A. J. Harris, president Chamber of Commerce, Nashville, Tenn.

Ira H. Evans, president the New York and Texas Land Company, Austin, Tex.
E. P. Wilmot, president Austin National Bank, Austin, Tex.
Walter Tips, hardware, Austin, Tex.
Albert P. Tenison, president Tenison Brothers Saddlery Company, Dallas, Tex.
Wm. M. Robinson, manager Parlin & Orendorff Company, Dallas, Tex.
James Moore, president Board of Trade, Galveston, Tex.
Edwin Chamberlain, Chamberlain & Gillette, San Antonio, Tex.
Chas. Hugo, president Alamo National Bank, San Antonio, Tex.
W. H. Rowe, president Bear River Irrigation and Ogden Water Works Company, Salt Lake City, Utah.
O. B. Barker, president Board of Trade, Lynchburg, Va.
John W. Craddock, Craddock, Terry & Co., boots and shoes, Lynchburg, Va.
R. C. Quinn, Guggenheimer & Co., importers of dry goods, Lynchburg, Va.
Herman Chapin, president Boston National Bank, Seattle, Wash.
C. H. Clarke, Kelley, Clarke Company, shipping and commission, Seattle, Wash.
Robert Moran, Moran Brothers, shipbuilders, Seattle, Wash.
Geo. S. Brooke, president the Fidelity National Bank, Spokane, Wash.
O. C. Jensen, Jensen-King-Bird Company, hardware, Spokane, Wash.
Jos. H. Spear, secretary and treasurer Washington Brick, Lime and Manufacturing Company, Spokane, Wash.
Hullihen Quarrier, president the Delaplain Dry Goods Company, Wheeling, W. Va.
E. E. Bentley, president Batavian Bank, La Crosse, Wis.
A. Hirshheimer, president La Crosse Plow Company, agricultural implements, La Crosse, Wis.
Jas. J. Hogan, La Crosse Coffee and Spice Mills, La Crosse, Wis.
N. B. Van Slyke, president First National Bank, Madison, Wis.
Samuel Higham, president Fuller & Johnson Manufacturing Company, Madison, Wis.
E. P. Bacon, E. P. Bacon & Co., grain commission, Milwaukee, Wis.
David Vance, president Chamber of Commerce, Milwaukee, Wis.
H. M. Wallis, president J. I. Case Plow Works, Racine, Wis.

NOTE.—The remainder of the national advisory committee is printed in the annual report and membership list of the league, every important city in every State of the Union being represented.

Now, I will read one from a banker, Homer S. King, president of Wells, Fargo & Co.'s Bank, San Francisco:

I am, on the whole, heartily in favor of a bill on these lines. I trust that it will receive a thorough discussion on the part of employers and labor leaders, as well as theorists, so the details may be perfected as far as possible. Such discussion and consideration are required, I believe, in the case of a measure bringing the Federal Government into new relations with our citizens. With the general spirit of the bill I am in hearty sympathy and hope, after discussion, to see it pass.

Mr. FURUSETH. Who is that?

Mr. WHITNEY. Homer S. King, president of Wells, Fargo & Co.'s Bank, of San Francisco.

Here is a letter from one of the great New York clergymen, McGee Waters, of the Tompkins Avenue Congregational Church, Brooklyn, N. Y.:

After a rather careful study of the bill and no little discussion with some of our leading commercial minds, both of New York and the West, I am thoroughly convinced that this bill truly embodies wise statesmanship, true Americanism, and the largest justice for both those who employ and those who are employed. I heartily indorse it and am exceedingly anxious that it may become a law.

Here is a letter from Mr. F. W. Gunsaulus, president of the Armour Institute of Technology, of Chicago, who was, before he became president of that institute, one of the greatest clergymen in the city of Chicago.

Mr. CONNOR. Yes; and still is one of the greatest.

Mr. WHITNEY. Yes; and still is one of the greatest. He says:

The bill to create a national arbitration tribunal is a very wise and comprehensive document. Long experience with these problems, especially here in Chicago, has convinced me that the largest possible appeal must be made to what you call

the only source of jurisdiction and enforcement of an arbitration of controversy on merits.

The public conscience and intelligence will be in entire accord with this measure. An effort must be made to create a public opinion, which will use this admirable instrumentality for the purpose for which it was intended. The voices and pens of serious men should be employed toward the propagation of a sentiment which will make the enactment of this law of vital importance to the whole country.

I have a letter here from John H. Gray, the head of the department of economics, finance, and administration of the Northwestern University, at Evanston, Ill. He is one of the standard men in that line in our part of the country. He says:

I have given the bill H. R. 9491 my most careful consideration and it has my most unqualified approval. The more I study the labor question the more I become convinced that the day is passed when labor can be treated and considered purely as a commodity to be bought, handled, and disposed of by the employer as ordinary commodities are. That was the theory in large part of the older economists, and was a theory which in the main corresponded to the fact in the days before constitutional governments, universal suffrage, and political liberty had become so widespread. For the last quarter of a century, however, the growing ethical sentiments of the world have come more and more to realize and proclaim the worth of the individual and the danger to the State of any considerable body of suppressed and oppressed and submerged individuals. The danger is recognized as an intolerable one if that submerged class is to make as large a body as the wage-earners do in our modern industrial nations.

The problem of adjusting hours to the new condition of things, giving the workmen under some name or form or organization a real influence in determining the condition under which they work, and, in fact, a general influence on the industry itself, is one of the most important problems that awaits a solution in the twentieth century. The employer must, in my opinion, take the workmen into some sort of a recognized relation in these matters. I should hesitate to advocate either what is popularly known as profit sharing, or cooperation, or communism, or a bonus system, or anything of the sort; but I have no hesitation in saying that the common sense of mankind and the ethical sentiment of the twentieth century recognizes an interest of the workmen in the industry such as the older theories made no provision whatever for. The workman and the employer have got to come to a mutual understanding, and ultimately must bow to the common sense and consensus of opinion of mankind.

That public opinion, when deliberate, well developed, crystallized, and properly directed is the ultimate ruling force of individuals and of groups of individuals can not be denied. The bill which you sent me is, in my opinion, the most hopeful suggestion that has been made for cultivating, educating, concentrating, developing, crystalling, and utilizing public opinion on this, the greatest question that confronts the twentieth century.

Should the committee desire my opinion on any particular points of the bill, or even an amplification of any of the things I have said along general lines, I should be more than pleased to answer any specific inquiries, and to do all I can to further the enactment of what seems to me such a desirable and effective bill as the pending one.

Now, as to the opposition among the labor unions. Here is a communication from Henry C. Barter, secretary-treasurer of the International Longshoremen, Marine and Transport Workers' Association. He says:

I wish to say that personally I am opposed to the passage of such a measure, for the reason that its tendency is toward compulsory arbitration.

Here is a letter from Matt. Wesley, secretary-treasurer of the United Mineral Mine Workers of North America, Ishpeming, Mich. He says:

In reply I beg to say that the United Mineral Mine Workers of America are opposed to the passage of such a measure, for the reason that its tendency is toward compulsory arbitration.

I have a number of letters along that line, and I will file them along with the others.

T. O. Owens, secretary of the Stockton Federated Trades, says:

Yours of February 12 at hand relative to proposed bill to create a national arbitration tribunal and to define the duties and powers thereof.

The same was referred to our legislative committee and they have reported adversely on same.

L. W. Quicks, grand secretary and treasurer of the Order of Railroad Telegraphers, says:

I beg to state that I can not say that I am in favor of the proposition, for the reason that I believe that any corporation and body of men who are sincere in their desire to arbitrate any difference existing between them can find a way to do so without form of legislature, and those who are not sincere for arbitration would only become a party to it, after bringing about a condition that would give them an unfair advantage over the other parties to such arbitration.

W. D. Mahon, international president of Amalgamated Association of Street and Electric Railway Employees of America, says:

Your communication of February 6, with copy of the H. R. bill 9491, a bill to create a national arbitration tribunal, at hand. You ask for my opinion, suggestions, and so on. In reply I would say that I can not see that a national arbitration board of this kind can be of much benefit in the settlement of labor disputes. The great majority of the disputes would come under State regulations. In a number of the States they have State boards. The experience with these boards has not been very satisfactory. I believe in voluntary arbitration, and I think that we are rapidly working to that end. The great majority of the agreements of our organization are made with an arbitration clause in them, and voluntary arbitration of this kind has been very beneficial and I have always advocated it; but to create a national board of arbitration under our laws would be merely to create a number of political offices without any benefits, in my opinion, to either capital or labor. This, briefly, is my opinion.

T. E. Zant, of the Central Labor Council, San Francisco, says:

In reply to your request of February 12 for an opinion on arbitration bill (H. R. No. 9491) pending in the Fifty-eighth Congress, I will say from my view of the contentions between labor and capital it would be impractical to attempt to fix any rule of adjustment that would do justice to all concerned, because of the varied and constantly changing conditions. There being no fixed or scientific basis upon which wages or the price of commodities rest—the fact that both are determined by arbitrary forces possessed by contending interests and each unwilling to release any advantage they might have—we feel it next to impossible to arrange any general plan of adjustment and preserve the vitality of these two forces that tend to strengthen the individuality and self-reliance of the workers and to develop and economize industry.

In this particular bill, as to its application, the penalty for violating the decision of the tribunal, being moral influence in creating public opinion is fully appreciated by our labor people; we know its value. Past experience and observation of various commissions for somewhat similar functions suggest that they have too often been overcome by the influence of corporate wealth and developed a bias in favor of those that had most to offer in social life as well as future prospects makes us skeptical of such a tribunal, especially of long term in office. If our fears be correct and decisions be biased in order to prevent strikes the results would be damaging to the trades-union development. Without unions our working people, through individual competition and the desires of some employers to increase dividends, would tend helplessly to a lower and lower wage, decreasing the general purchasing power of the community and the lengthening of the hours of work, taking away the opportunity of men to find employment, thereby further reducing the purchasing ability; and a depressing influence set in. As to strikes, in the main they are only the deferring of production from the day until to-morrow.

With our modern facilities we can supply the market demands without constant operation. The desire to prevent strikes that our country might attain commercial supremacy is of no interest to the masses if only those conducting business enterprises receive the benefit. If the ability to sell goods cheap in a foreign market is to be at the expense of the working people—that they accept reduction and refuse to

strike as a means to secure commercial supremacy—what is gained by it? For these reasons we are not in favor of the bill and can only agree to a voluntarily chosen tribunal.

James G. Bacon, of the Hartford Central Labor Union, says:

Your letter of the 11th instant with copy of H. R. 9491 has been received.

By vote of the executive committee of the Hartford Central Labor Union I am instructed to inform you that we believe it is a measure which can prove of no benefit to anybody except the high-salaried members of the tribunal.

Inasmuch as the tribunal has no power to enforce a decree and may keep secret all the information it gathers, the whole scheme develops into a plan which may be used to strengthen the power of a dominant political party at the expense of the whole people without doing a thing to further the objects for which it was created.

I am memorializing the members of Congress from Connecticut to oppose the bill if it ever comes up for action.

GENERAL OPPOSITION IS COMPULSORY ARBITRATION, BUT IT CAN NOT BE.

Some of the letters in opposition relate to the salaries and to details, but the general criticism is that it is compulsory arbitration. The bill does not mean compulsory arbitration, because there can be no such thing under our Constitution, and I think these people will——

Mr. CONNER. Do these objections on the ground that it is compulsory arbitration come from the laboring people altogether, or do they come from the employers as well?

Mr. WHITNEY. They come from both sides. They say it is compulsory arbitration. They misunderstand the bill. The bill is not compulsory, as you see, and I think that matter will be understood upon serious consideration.

RECOMMENDATION OF COAL-STRIKE COMMISSION.

The anthracite coal commission made certain recommendations along the lines of arbitration. George Gray, Carroll D. Wright, John M. Wilson, John L. Spalding, Edgar E. Clark, Thomas H. Watkins, and Edward W. Parker sat on that commission. They said:

We believe that the awards we have made, and which are herewith submitted, will accomplish, certainly during their life, the high aims contemplated in your letter—

That is, the President's letter—

Faithful adherence to the terms of the awards can not fail to accomplish this; but in order to secure the public against long-continued controversy, and to make a coal famine or a famine in any other direction practically impossible, we deem it essential that there should be some authority to conduct just such investigations as that you called upon us to make.

There are some who have urged the commission to recommend the adoption of compulsory arbitration, so called, as the means of securing this desired result, but we can not see our way to recommend any such drastic measure. We do not believe that in the United States such a system would meet with general approval or with success. Apart from the apparent lack of constitutional power to enact laws providing for compulsory arbitration, our industries are too vast and too complicated for the practical application of such a system.

We do believe, however, that the State and Federal Governments should provide the machinery for what may be called the compulsory investigation of controversies when they arise. The States can do this, whatever the nature of the controversy. The Federal Government can resort to some such measure when difficulties arise by reason of which the transportation of the United States mails, the operations, civil or military, of the Government of the United States, or the free and regular movement of commerce among the several States and with foreign nations, are interrupted or directly affected, or are threatened with being interrupted or affected.

The Federal Government has already recognized the propriety of action under the circumstances just cited, as evidenced in the acts creating boards of arbitration or commissions for settling controversies and differences between railroad corporations and other common carriers engaged in interstate or Territorial transportation of property or persons and their employes, approved October 1, 1888. Under that act, when such controversies and differences arose, the President was authorized, on the application of either of the contestants, to appoint a commission of three members to investigate the causes surrounding the difficulty. That act was cumbersome in its provisions and was repealed by an act approved June 1, 1898, entitled "An act concerning carriers engaged in interstate commerce and their employees."

Mr. FURUSETH. May I ask a question?

Mr. WHITNEY. Yes, sir.

Mr. FURUSETH. Judge Gray does not seem to take the position there, as you read his opinion, that compulsory arbitration is not possible, does he?

Mr. WHITNEY. Under the Federal Constitution, yes.

Mr. FURUSETH. He speaks of it——

Mr. WHITNEY. He says it is obvious, as I recall it.

Mr. FURUSETH. I do not think he says so. I listened very carefully.

Mr. FOSTER. Read it again and let us see what he says.

Here is the language:

Apart from the apparent lack of constitutional power to enact laws providing for compulsory arbitration, our industries are too vast and too complicated for the practical application of such a system.

He says it is apparent that we are unable to do so.

The chief benefit to be derived from the suggestion herein made lies in placing the real facts and the responsibility for such condition authoritatively before the people that public opinion may crystallize and make its power felt. Could such a commission as that suggested have been brought into existence in June last we believe that the coal famine might have been averted—certainly the suffering and deprivation might have been greatly mitigated.

PRACTICABILITY OF BILL PROVED BY PRECEDENT IN STRIKE.

Now, as to the practicability of this bill. It has been tried in one State in the Union—in the State of Massachusetts.

There is, in the State of Massachusetts, and has been for nearly thirty years, a board of railroad commissioners. In the history of that board there was one important but now quite forgotten incident, from which a highly suggestive lesson may be drawn. It occurred twenty-five years ago. The Massachusetts railroad commission was organized on the theory that, in adjusting matters of difference between the community and its railroad corporations, the vesting of arbitrary power in such a tribunal was a hindrance to it rather than a help; for the reason that in America force is, in the long run, less effective in producing results than investigation and subsequent well-considered recommendations based thereon.

The appeal was in every case to be made to reason and public opinion, and not to the sheriff or the soldier. Accordingly, in the event of differences between the corporations and their employees, even though resulting in strikes and tie-ups, the commissioners had no executive power. It was their duty, in a general way, to take official cognizance of the fact when the community was sustaining an injury or an inconvenience, and to investigate the causes thereof. Having so investigated, the board was empowered to locate the responsibility for the injury and inconvenience, and to make its recommendations accordingly; but those recommendations had merely a moral force. They could be addressed to the parties concerned, and to public opinion, only. Their effect, greater or less, was measured by the justice and good sense impressed upon them. The commissioners, moreover, disavowed any wish to be clothed with larger powers. They feared the possession of such powers. They were persuaded they could in the end accomplish more satisfactory results without them.

This theory was soon put to a test. At 4 o'clock in the afternoon of the 12th of February, 1877, all the locomotive engineers and firemen in the employ of the Boston and Maine Railroad Company stopped work in a body, abandoning their

trains. The move was not altogether unexpected, but the operation of the road was seriously interfered with. The commissioners did not at first intervene, neither party calling upon them. Indeed, both parties were unwilling so to do, for each was apprehensive, apparently, of adverse action. During several days, accordingly, the commissioners preserved an attitude of silent observation. After the lapse of a reasonable period, however, the board concluded that it was plainly time to recognize the fact that the public was suffering serious inconvenience; for then the Boston and Maine Railroad was, as it still is, one of the principal arteries of eastern New England.

The president and directors of the company, and the employees of the Brotherhood of Locomotive Engineers, were accordingly notified that the board proposed to take a hand in the business. This it proceeded to do. An immediate investigation was instituted. Both parties appeared, for, without confessing itself in the wrong, neither party could well help so doing, and professed a perfect willingness to submit their cases. No suggestion of a readiness to abide by any decision that might be given thereon was either asked for or given; but the board proceeded to hear witnesses and to elicit the facts. The inquiry was continued through three days, and on the 21st of February the report of the board was made public, appearing in full in all the newspapers of that date. In it the commissioners, after carefully and judiciously sifting out the essential facts from the evidence submitted, placed the responsibility for the trouble where the weight of evidence showed it belonged, and thereupon proceeded to make such recommendations as in its judgment the exigencies called for. The effect was immediate. An authentic record was before the community, and public opinion, crystallizing, made itself decisively felt. * * *

Reliance was placed in an enlightened sense of right of all concerned, and an informed public opinion.

M'DERMOTT ARBITRATION BILL.

Now, as I understand, the committee is to take up the other arbitration bill, of Mr. McDermott, which provides for the temporary appointment by the President of an arbitration board. I think that is a good bill, but I do not think it goes far enough.

The CHAIRMAN. You mean a commission appointed by the President for each case?

M'DERMOTT BILL CREATES A POLITICAL BODY.

Mr. WHITNEY. For each case. In the first place, it would make a political body of it, and I know, from my talks with these gentlemen on both sides, that anything they hate is political interference with business conditions. A body appointed by the President who may be of one class or of another class will be prejudiced, but if you have a permanent board sitting for six years, one member going out every two years, making it continuous and infusing new blood, it will be more in the nature of a supreme court where political influence will not have a hold.

The great benefit, I think, from a national arbitration tribunal comes from the fact that you have a body sitting both for the employee and employer, where facts can be presented to it and thus given to the public, which will enforce right and justice in the matter. No strike has ever succeeded in this country without the public one way or the other.

The President would never have appointed the coal commission if the public had not been vitally interested and anxious to take it up one way or the other.

So I think that the permanent tribunal is more effective for the reason that it would prevent strikes, because the people on either side would hesitate to go to that tribunal with a trivial cause. Thus a great

many strikes and lockouts would be prevented. An arbitration tribunal, to be appointed from time to time, would not go into a strike until the strike had actually existed and serious damage had been done.

ARBITRATION IN GREAT BRITAIN.

I have a little to say briefly here on arbitration in Great Britain, quoting the leaders there on both sides, and showing the conditions there. We can draw a good lesson in this country from it, as we have drawn all our common law, etc., from that country. I thank you.

The growth and present status of voluntary conciliation and arbitration in other lands is of importance.

In England years ago the employer and employee recognized the futility of industrial wars and attempted to find ways to avoid trade disputes, and if possible, to arbitrate and settle in peaceful ways.

At present there is hardly a trade center in England which has not organized to bring quiet and contentment, or at least less discontent, and out of the great coal strike of 1893, engineering dispute in 1897, and contests in shoe trade has come widespread belief in the efficacy of conciliation and arbitration in the settlement of trade troubles.

In 1899 Mr. Burt, representative of Northumberland miners in Parliament, said: "Every possible means should be tried of obtaining the workmen's rights without going on strike."

In England, notwithstanding the statement of the advocates of the New Zealand compulsory arbitration act that investigation shows the worthlessness of voluntary methods, the representatives of English employers and workmen seem to believe that under existing conditions voluntary conciliation and arbitration are by far the best, and in fact the only rational means of avoiding disputes and of settling them.

Mr. W. Glenning, assistant secretary of the Amalgamated Society of Engineers, thinks the most direct and ideal method of settling disputes is by the aid of a third man not connected with the trade.

In the engineer trade the conciliation board has saved immense sums of money for the shipbuilding yards, and there is a growing disposition to settle amicably.

In the shoe trade Mr. Cort, the secretary of the union, stated that a better and sounder feeling, which grows steadily, exists between employer and men since the rules for boards of arbitration and conciliation, and he is a strong upholder of the principle of conciliation and arbitration, which he thinks is much to be preferred to anything heretofore tried. He says the men are loyal to arbitration.

A. W. Chamberland, secretary of the employers' board, regards conciliation and arbitration as the only reasonable and satisfactory way to settle differences and disputes between two classes.

The iron and steel industry in England has had since 1869 a board of conciliation and arbitration, which has been most successful in avoiding serious disputes and in settling those that did arise.

Mr. Cox, the present secretary of the Iron and Steel Workers of Great Britain, regards the board as one of the blessings of the north of England and one of the greatest they have had in the trade. If it were not for the existence of this and the Midlands board there would be a tremendous loss in wages and increasing strife and turmoil. The masters would be badly off, for they would suffer by stoppings and consequent loss on contracts. The trade has experienced many changes;

more, perhaps, than any other in existence, for it has gone through a complete revolution from iron to steel, and all the innumerable questions arising from these changes have been settled by the board. The board has the effect of holding in check arbitrary foremen, who sometimes take advantage of the men. At the same time it holds the men in check, for unless they have a good case their appearance before the board is ridiculed by their own colleagues.

Edward Trow, the former secretary, said he had never known a case which could not be dealt with fairly by the arbitration board. Where both sides were acting with a desire to be fair and just to each other the result was always satisfactory. Until pure productive cooperation is secured conciliation and arbitration are the safeguards for the men.

IRON AND STEEL WORKERS.

The rules of the Associated Iron and Steel Workers of Great Britain set out that one of the objects of the association is to—

regulate the relations between workmen and employers and to obtain by arbitration and conciliation, or by other means that are fair and legal, a fair remuneration to the members for their labor.

Len. Fenwick, the men's secretary, regards their method as an excellent way of settling disputes.

The Boiler Makers and Iron and Steel Shipbuilders' Society has been organized sixty years and is one of the wealthiest trade unions in England. Has been no general strike for twenty years. This has been accounted for by the conciliatory features in vogue. Mr. R. Knight, secretary, is on record as favoring conciliation as the best means of settling difficulties between employer and employee, because it leaves no bitterness behind.

SCOTTISH IRON TRADE.

The conciliation and arbitration board in the manufactured-steel trade for the west of Scotland was organized in 1892. During the past five years there has been no strikes to speak of, and where differences have arisen they have been amicably settled.

Mr. John Cronin is the general secretary of the men. He said they have never had any case of repudiation of a decision since the establishment of the board.

Mr. Bishop, secretary of the masters' association, regards the board as a good education, for many differences are due wholly to misunderstandings on the part of the men. It gives times for pause; when in hot blood, it gives room for reflection. The men frequently think capital is against labor, but the board shows that their interests are identical, and will often avoid if not altogether dispense with a strike.

THE COTTON TRADE.

The Northern Counties Amalgamated Association of Weavers has 80,000 members. Mr. W. H. Wilkinson, the secretary, said that the board of conciliation, which was established in 1878 after the big strike of that year, works fairly well. In 1896 the rules were amended and now give better satisfaction. All around the men have held their own in the arbitration. All wage questions have to be settled by this body.

The reason for the formation of the board was the desire to prevent strikes. Neither side has been willing to appoint an arbitrator. In Mr. Wilkinson's opinion, the board has done an immense amount of good and has settled hundreds of disputes. A tangle can be straightened out much better while the men are working than after they have gone out on a strike.

The general results in England are that:

(1) In case employer refuses to accept an award he is not supported by fellow-manufacturers.

(2) Boards have fostered good feeling.

(3) Disturbances have been few where men are treated with proper courtesy and frank interest.

(4) When formerly it was almost impossible for men to know the facts concerning the state of trade and the prices of raw material and finished product, the desired information is now secured by the aid of audits by trained accountants and the knowledge so acquired has satisfied the men as nothing else could, and the confidence thus given has not been violated.

(5) Boards have reconciled labor and capital and put into practice justice and morality.

(6) The conciliation board has become an element of education. The two sides wanted to enlighten each other, to understand each other, believe each other, and to discuss matters and lay open their minds fully.

(7) Mr. Trow, secretary of the iron and steel trade, said that with them no striking was allowed, and no support given to men who refused arbitration. He favored the meeting of the two sides on a perfect equality, and the giving of all necessary information to the men's representatives in every dispute. In his trade numerous advances have been secured by arbitration, they having gained more through that method than by strike. The representatives should be selected by secret ballot, and, when once elected, should have power to deal, while the men should be prepared to carry out whatever their representatives agree to. Arbitration should be voluntary and every award should be carried out faithfully, whether the workmen lose or win. Trade unions were the result of tyranny; arbitration is the result of strikes, and the results of conciliation and arbitration together will be the success of productive cooperation.

That is all I have to say at present. I thank you.

Mr. DAVENPORT. May I ask the gentleman a question?

Mr. WHITNEY. Yes, sir.

Mr. DAVENPORT. I understood the gentleman to say that he was concerned in the drafting of this bill?

Mr. WHITNEY. Yes, I worked on it quite a little bit.

Mr. DAVENPORT. Are you a lawyer?

Mr. WHITNEY. I am a lawyer, but I am not practicing law now. I am clerk to the Naval Committee of the House of Representatives. I would like to ask the gentleman who he is?

Mr. DAVENPORT. I am Daniel Davenport, of Bridgeport.

Mr. WHITNEY. Whom do you represent?

Mr. DAVENPORT. I represent the National Anti-Boycott Association. Is Mr. Foster a lawyer?

Mr. WHITNEY. No, sir; he is not.

Mr. DAVENPORT. Can you tell us from what source you derived the

provision in this bill providing for the investigation? Is it taken from some other bill?

Mr. WHITNEY. The bill was drawn up and sent out to a great number of people and they have sent in suggestions. That is probably one of the suggestions received. I do not know the name of the man who advanced that idea.

Mr. DAVENPORT. I am referring to the particular provision in this bill providing for investigation. Was that drawn by you gentlemen, or was it drawn by some one else?

Mr. WHITNEY. I do not know who it was drawn by. It was probably just in the general mass of suggestions.

Mr. DAVENPORT. Was it the same bill as the Senate bill?

Mr. WHITNEY. Yes; it was identically the same as the Cullom bill.

The CHAIRMAN. I understand it was actually drafted by Volney W. Foster, of Chicago.

Mr. WHITNEY. He had these ideas that he had gotten from different gentlemen, and he drafted them into a bill. Then he sent that bill around again, and the gentlemen made notes on the margins and they wrote letters about it. Senators and members were consulted about the constitutionality, etc. I will say that Mr. Foster consulted with the American Federation of Labor also.

Mr. CONNER. Does any eminent lawyer criticise the bill that you know of?

Mr. WHITNEY. No.

Mr. CONNER. Can you mention the lawyers who have approved this bill?

Mr. WHITNEY. Former member of Congress Mr. Corliss, of Detroit, has gone through it very carefully. I could mention Senators' names, but I do not think it proper because they will pass on it when it gets to them.

Mr. DAVENPORT. This is drawn under the interstate-commerce laws of the Constitution, I suppose?

Mr. WHITNEY. Yes, sir; but Mr. Foster, in his original bill, did not draw it quite as a lawyer would draw it.

Mr. FOSTER. Do you expect Mr. Foster to appear here?

Mr. WHITNEY. Yes, sir. He is ill, but he will appear.

The CHAIRMAN. He is at Hot Springs, and he telegraphs that he will be here as soon as it is possible.

Mr. WHITNEY. When we got interested in this matter we had this mass of material to work on.

I have a telegram from John L. Spalding, Bishop of Peoria, who was a member of the Coal Arbitration Commission, stating that he approves the Foster bill, and that he hopes it will become a law. I believe Mr. Spalding will also be heard, if you wish, in favor of the bill.

Mr. HUGHES. Have you read the McDermott bill?

Mr. WHITNEY. Yes, sir.

Mr. HUGHES. Are you prepared to comment on it now?

Mr. WHITNEY. I think it is a very good measure. I do not think it goes far enough—that is all—for the reason that it offers opportunity for politics to interfere, and for the further reason that a permanent board might keep off strikes and lockouts—unless the contentions are very serious.

Mr. HUGHES. You mean that this bill might prevent a strike, and

that the McDermott bill can only deal with a strike after it has passed the arbitration stage?

Mr. WHITNEY. Yes, sir.

Mr. FURUSETH. The real purpose of the bill, as you see it, is to prevent strikes?

Mr. WHITNEY. Yes; it has that tendency, to prevent lockouts and strikes.

Mr. HUGHES. The only objection I see to the bill, and also the only advantage the McDermott bill has over it, is that the McDermott bill is cheaper as an experiment. They are both experiments.

Mr. WHITNEY. I think, as regards cost, that if either bill would stop a strike it would pay for itself for one hundred years in one strike. I do not think the cost would be an element.

STATEMENT OF DANIEL DAVENPORT, REPRESENTING THE ANTIBOYCOTT LEAGUE OF BRIDGEPORT, CONN.

The CHAIRMAN. We will hear you now, Mr. Davenport.

Mr. DAVENPORT. Mr. Chairman and gentlemen of the committee, the provisions of this bill are so numerous and they cover such a wide field and are so fraught with mischief that it would take considerable time to discuss them with any profitable results to the committee.

There are, however, certain aspects of the bill to which I would call attention now, as being of the utmost importance in their effect. I do not know whether the members of the committee have familiarized themselves with the provisions of the bill so that it will not be necessary to read over the different paragraphs and call attention to them, but its effect is to subject to the espionage of the all-searching eye of the Federal Government every manufacturer and every employer in this country whose business may in any way be interstate. Note the language of the bill as it appears in the several sections. For instance, take up section 3:

> That whenever there shall arise a controversy within the United States concerning wages, hours of labor, or conditions of employment between employer or employers, being an individual, partnership, association, corporation, or other combination, and his, their, or its employees, or any association or combination of such employees, in which controversy a strike or lockout is threatened or exists, and in which controversy there is involved any commerce with foreign nations, or among the several States, or with the Indian tribes, or when such controversy arises within any of the Territories of the United States, or the District of Columbia, etc.

Now, the committee is familiar with the construction which the Supreme Court of the United States has put upon the term "interstate commerce." It is not confined to agencies for the transmission of intelligence from State to State, although that is, of course, embraced in it; nor is it confined to transportation of products between the States and foreign nations; nor is it confined to the passage of individuals from one State to another.

We know that under the decision of the Supreme Court in the lottery cases, following up a long line of other decisions, the power of Congress over interstate commerce is complete. It is not confined merely to what we call regulating, but it extends to the power of prohibiting altogether. It is possible for the Congress of the United States to pass a law under that provision which would prohibit me, a private citizen, from going to my home in Bridgeport. That is the

scope of the power of Congress. It is vast, illimitable, and plenary, and when Congress has once declared anything in regard to it, that becomes law, any law in a State to the contrary notwithstanding. Of course, this slumbering giant, not having been awakened to its full activity, does not interfere as yet with the acts of States in many respects, as, for instance, the passage of pilot laws.

Many acts of exercise of the police power in States are permitted simply because Congress has not seen fit to act, but it is impossible for the human imagination to comprehend the scope of that power in the Federal Government. For my part I am not prepared now to say that the Supreme Court of the United States would not sustain a compulsory arbitration law so far as it relates to anything pertaining to interstate commerce. Of course, if a suit arose between two citizens of Connecticut over an injury arising, for instance, between an interstate railroad and a citizen of that State, I suppose it would be in the power of Congress to take away from the State courts the determination of such cases, although, of course, they have never yet undertaken to do so.

These remarks are made by me for the purpose of directing the attention of the committee to the vast power that Congress possesses over this matter, and the infinite possibilities that lie in the future for the exercise of that power. But it has come to this, that any man in Connecticut who is engaged in the manufacturing business and is sending his goods into other States is engaged, in so far as he sends his goods into other States, in interstate commerce. You remember the sugar case—the Knight case—where the Supreme Court held that the purchase of the property of that sugar company in Philadelphia was not prohibited by the Sherman antitrust act in 1890, because that business, so far as it was affected by that transaction, related wholly and solely to the manufacture within the State of the company's products; but when any manufacturing corporation or any individual is engaged in a business where he sends goods into other States, where he sends out agents for the purpose of soliciting orders, etc., it is interstate business of the character I speak of.

Now, under the language of this bill, probably ninety-nine one-hundredths of the manufacturing concerns of this country are within its provisions, and I suppose as the bill was carefully drawn and is the result of investigation and consideration by these gentlemen, it is their purpose to have it apply to every such concern, not only to the railroad corporations of this country, which, according to the Industrial Commission's report, have one-fifth, I believe, of all the capital of the United States invested in them, but the other great manufacturing and industrial businesses, as well, of course, as the merchants who are engaged in interstate trade. That, I say, is the scope of the bill.

Now, what powers are conferred upon the Government by this bill? There are two sections I desire to refer to. One relates to the application by any party to a dispute or controversy to this tribunal, and provisions are made for the course of procedure in the event of one party applying and the other party declining, or the other party accepting. I say that is one section. The other relates to the power of the tribunal itself to initiate this proceeding, and they have the power to call upon any party who is engaged in this kind of business and who is threatened with a strike, or where the employees, either

one, or a union, threaten a strike. They are empowered to take hold of the matter on their own initiative.

Now, what power have they? I call the attention of the committee to section 9:

"That the tribunal, or any one member thereof, shall have power to administer oaths and affirmations and to sign subpœnas, and for the purposes of this act said tribunal shall have power to require by subpœna the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation; such attendance of witnesses and the production of such documentary evidence as may be required from any place in the United States at any designated place of hearing. And in case of disobedience to the subpœna the tribunal may invoke the aid of any court of the United States in requiring such attendance and testimony of witnesses, and such production of books, papers, tariffs, contracts, and agreements.

Any circuit court of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpœna issued subject to the provisions of this act to any person, issue an order requiring such person to appear before said tribunal and produce books and papers, if so ordered, and give evidence touching the matter in question, and any failure to obey such order of the court may be punished by such court as a contempt thereof. No persons shall be excused from attending and testifying or from producing books, papers, tariffs, contracts, agreements, and documents before the tribunal or in obedience to the subpœna of the same, whether such subpœna be signed or issued by one or more members of the tribunal, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to criminate him or subject him to a penalty or forfeiture.

Mr. HUGHES. Mr. Davenport, as you understand it, does that mean after the party had agreed to accept——

Mr. DAVENPORT. Before. Either before or after.

Mr. HUGHES. What page is that on?

Mr. DAVENPORT. Do you mean the clause, or the provision?

Mr. HUGHES. The clause you were reading from.

Mr. DAVENPORT. I am reading from section 9.

But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before said tribunal or in obedience to its subpœna or the subpœna of any one of the members thereof, or in any case or proceeding: *Provided further*, That no person so testifying shall be exempt from prosecution and punishment for the perjury committed in so testifying. The witnesses summoned before the tribunal shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States.

Upon the request of the tribunal it shall be the duty of any district attorney of the United States to whom said tribunal may apply to institute in the proper court and to prosecute, under the direction of the Attorney-General of the United States, all necessary proceedings for the enforcement of the provisions of this section, and for the punishment of all violations thereof, and the costs and expenses of such prosecutions shall be paid out of the appropriations for the expenses of the courts of the United States.

The testimony of any witness may be taken, at the instance of a party in any proceeding or investigation pending before the tribunal, by deposition at any time after a cause or proceeding is at issue on petition and answer. The tribunal may also order testimony to be taken by deposition in any proceeding or investigation pending before it at any stage of such proceeding or investigation. Such depositions may be taken before any judge of any court of the United States, or any commissioner of a circuit or any clerk of a district or circuit court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties nor interested in the event of the proceeding or investigation. Reasonable notice must first be given in writing by the party of his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose and to produce documentary evidence in the same

manner as witnesses may be compelled to appear and testify and produce documentary evidence before the tribunal as hereinbefore provided.

Every person deposing as herein provided shall be cautioned and sworn (or affirm, if he so request) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the officer taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the tribunal, etc.

That is the provision of the law in regard to proceedings instituted upon the application of either party, whether the thing has been agreed to or not. But in addition to that, when the tribunal itself sees fit to institute such an investigation, it is at liberty to do so, and those provisions all apply.

The CHAIRMAN. Do you think that would cover the examination of books and accounts?

Mr. DAVENPORT. Everything.

The CHAIRMAN. Whether they had agreed to arbitration or not?

Mr. DAVENPORT. Absolutely. Its intent, I take it, is to subject to investigation the business of any party, as within the scope of the provisions of the bill; that is, interstate business.

The CHAIRMAN. I asked that question because section 10, page 17, provides:

That the tribunal, or its duly appointed agents, may, whenever it deems it expedient, after an agreement for arbitration between the parties to the controversy has been made, enter and inspect any institution, establishment, factory, workshop, or mine belonging to either party, and may employ competent experts to examine the accounts, books, and official reports of either party.

Mr. DAVENPORT. Yes; I noticed that. But that does not interfere at all with the exercise of the other power.

Under this provision they may enter the very premises if the parties have agreed to it.

The CHAIRMAN. They may examine the books if the parties agree to it.

Mr. DAVENPORT. And employ competent experts; but they have the power before such an agreement under section 9——

The CHAIRMAN. That is a question of construction of the bill.

Mr. DAVENPORT. Can there be a question of construction under section 9?

The CHAIRMAN. It must all be taken together.

Mr. DAVENPORT. But that is the literal wording of the statute, which I have read, and, as has been recently discovered, the Supreme Court of the United States interprets a statute of the United States according to the plain language of it, and they have done that in all of the cases that have arisen under the Sherman antitrust act.

I say if this bill is passed with that provision in it, it will subject every person who is engaged in interstate trade and every person who is not engaged in interstate trade, in the District of Columbia and in the Territories, to the liability of having his business investigated by this tribunal. Of course anyone can see the extent of the power, and the tremendous authority that is conferred upon this tribunal by the bill. I submit that this committee ought not to recommend to the whole committee, nor should the whole committee recommend to the House, nor should the House pass any bill which has that effect.

Of course, when you take up the general subject of arbitration——

Mr. CONNER. Mr. Davenport, do you think a bill would be effective that does not contain some provision giving the board authority to make the investigations thorough?

Mr. DAVENPORT. I think myself that a bill establishing an arbitration board which has the semblance of a court could not be made effective without such provisions in it. That is my idea about it.

Mr. HUGHES. Do you believe in the Government arbitrating the differences between the employers and the men at all, as a general proposition?

Mr. DAVENPORT. No, sir; I do not, upon the general proposition of arbitration. I do not believe it is the business of the Government, either State or Federal. I think it is an unwise thing for them to attempt to do so. I have heretofore expressed to this committee my own views upon the subject of the relation between employer and employee and the unwisdom of any of these devices, whether it be Federal arbitration or not, whereby the control and authority of the employer is taken away from him.

The CHAIRMAN. Do you believe in arbitration at all, Mr. Davenport?

Mr. DAVENPORT. My own idea is that it is a mistake.

The CHAIRMAN. Any arbitration?

Mr. DAVENPORT. Any arbitration. My idea is that those things should be left to be settled in other ways.

Mr. HUGHES. You do not believe in strikes, do you?

Mr. DAVENPORT. Certainly, I believe in strikes. I believe a man has the right to quit the employ of another; and what he does singly he can do in the company of others.

Mr. CONNOR. Do you believe the public is benefited by strikes?

Mr. DAVENPORT. No, sir; I think there never was a strike that was won. Mr. Gompers says there never was a strike that was lost, but according to my judgment there never was a strike that was won. The striking employees, the employers, and the public, all together, are the losers by it.

Mr. FURUSETH. May I ask the gentleman a question?

Mr. DAVENPORT. Yes, sir.

Mr. FURUSETH. Your objection to this bill, then, is based upon this fact: That you oppose any interference on behalf of anybody in the business of the employer?

Mr. DAVENPORT. Yes, sir; that I do.

Mr. FURUSETH. Your position is, in other words, that the employer is the absolute master of his business?

Mr. DAVENPORT. He is the absolute master of his business, and he should be. That is my position.

Mr. HUGHES. Now, will you come back to where we were a moment ago?

Mr. DAVENPORT. Yes, sir.

Mr. HUGHES. You said you did not believe in arbitration, that you believed in strikes——

Mr. DAVENPORT. I believe in the right to strike.

Mr. HUGHES. Then you went on and said there never was a strike that was won?

Mr. DAVENPORT. Yes.

Mr. HUGHES. And that the public, the employers, and the employees all suffered—I believe that is what you said?

Mr. DAVENPORT. That is true.

Mr. HUGHES. That being so, how do you reconcile those two positions?

Mr. DAVENPORT. I believe in the right of the individual to strike. I believe that the privilege of the individual to enter the employ of another, or to cease from being his employee, is an absolute right.

The CHAIRMAN. But you think it very foolish on his part to strike?

Mr. DAVENPORT. I do.

The CHAIRMAN. Which brings it around, in your opinion, to the point that what the employer says should be——

Mr. HUGHES. Final.

The CHAIRMAN. Final, regardless of anybody else.

Mr. DAVENPORT. As to whom he will employ and upon what terms he will employ them, and all that is involved in that.

The CHAIRMAN. Why should he have such an absolute right as that where other interests are affected, perhaps, in as great a degree as his own—for instance, the public interests?

Mr. DAVENPORT. Because it involves his property right. There is just as much right on his part to use his property as there is a right in an individual to decline to work. So far as any interference as that is concerned, it is not only bad political economy, but it is bad politically and socially.

The CHAIRMAN. You would have the same doctrine apply to a railroad as to any other employer?

Mr. DAVENPORT. I would; although they are in a sense, of course, semipublic institutions.

The CHAIRMAN. Would you modify it in regard to railroads?

Mr. DAVENPORT. I would not, so long as the Government sees fit to allow individuals to invest their capital in transportation companies. But apart from the general proposition as to arbitration and its unwisdom, when you come to the question Mr. Hughes asked, as to interference by the Government and the Government taking a hand in it, that is unquestionably, in my mind, obnoxious.

The CHAIRMAN. Do you not refer now to compulsory arbitration—to compel the employer to accept the decision of some outside party?

Mr. DAVENPORT. No; I do not confine it to that.

Mr. CONNOR. Do you think a bill of this character would have a restraining influence or would prevent strikes?

Mr. DAVENPORT. I have my doubts about that. We have in this morning's paper an illustration in New York. Here is an agreement that has been entered into between the building employers of New York and the unions providing for arbitration, and providing further that until the arbitration board has acted the parties shall not strike; that there shall be neither strike nor lockout. We find the situation to-day in New York that, notwithstanding that provision so carefully prepared by the interested parties on both sides, it is broken at the start, and a tie-up is threatened of all the building industries of New York.

Mr. FURUSETH. By whom, Mr. Davenport?

Mr. DAVENPORT. This originated in the refusal of the bricklayers' union to observe the conditions in the agreement which was entered into in their name with the employers' association——

Mr. FURUSETH. One moment, please. Is there not a mistake about that?

Mr. DAVENPORT. I think not.

Mr. FURUSETH. Did it not originate in the fact of the employers reducing the wages of the laborers—the building laborers?

Mr. DAVENPORT. I think it did—of the building laborers, and then——

Mr. FURUSETH. They were a part of it.

Mr. DAVENPORT. Not of the bricklayers' union.

Mr. FURUSETH. No; but they were a part of the agreement, were they not?

Mr. DAVENPORT. The agreement was made, I think, between the bricklayers' union and the building employers' union; but at once the bricklayers' union proceeded to violate the conditions of the agreement.

Mr. FURUSETH. After the employers had violated theirs on their side, first.

Mr. DAVENPORT. I think not.

Mr. CONNOR. That trouble would not arise under this bill, because this contemplates that one of the parties may refuse to arbitrate, and that publicity is then given to the refusal.

Mr. DAVENPORT. That is true. That is the provision in regard to arbitration. On the other hand, we find another large section of the community, the lithographers, where the employers are threatening to lock out their employees unless they will agree as a union to sign an arbitration agreement. In other words, we have one section trying to get out from under the provisions of an arbitration policy and the other to get in.

The CHAIRMAN. Excuse me a moment, Mr. Davenport. Is not the difference of opinion between you and Mr. Furuseth on this matter liable to arise on a large scale? Suppose a strike takes place and the employers upon the one side accuse the employees of bad faith, or something of that kind, and the employees on the other side deny it and say that the employers are entirely responsible. In that event the public has no means of knowing which is correct about it. Perhaps both are in a measure correct.

Mr. DAVENPORT. Yes.

The CHAIRMAN. Would not the decision of a board of this kind, which had standing enough to command confidence, enable the public to exactly determine which side was to blame in the matter and which side would be entitled to public sympathy and support?

Mr. DAVENPORT. I do not think so, and——

Mr. FURUSETH. You are opposed to any interference on the part of anybody with the employer of labor upon this ground, I understand: That the laborer forms a part of the business which is necessary to him in order to carry on his business, and that the ownership of his business gives him a kind of vested right in so much labor as is necessary to carry on that business?

Mr. DAVENPORT. By no means.

Mr. CONNOR. Do I understand you to say, Mr. Davenport, that, in your opinion, the strike is injurious to the striker, to the employer, and to the public?

Mr. DAVENPORT. Yes.

Mr. CONNOR. Then can you tell me why you are not in favor of legislation to prevent strikes?

Mr. DAVENPORT. Because it is absolutely necessary, according to my judgment as to these matters, that the employer should have the

sole determination as to the conditions under which he will run his business, as to whom he will have work for him, and under what conditions they shall work. That unity of management which is absolutely essential to all production, without which business can not be carried on, is at stake in the matter. But upon that subject I have no other views to communicate to this committee than those I communicated in the remarks I made upon the subject when the eight-hour bill was up for consideration.

There is no more possibility of successfully conducting business in the industrial world without unity than there is in successfully conducting an army or anything that requires united action under one mind, or in any other form of collective activity. That is certain in my mind, and all these devices that are gotten up to interfere with that, while they are now causing immense trouble in this country, will cause much more trouble. In the end society will come back to the recognition of that principle. The thing to be done is to enforce the laws which secure the right of the individual to run his own business according to the dictates of his own best business judgment and the right of every man to work, whether he belongs to a union or not. That is the path along which this country has got to travel before it reaches the solution of the great problem which is before it.

Mr. FURUSETH. You say that there can not be any distinction between an industrial establishment and an army; or that the principle is the same in a large industrial establishment and in an army. You, by that, mean that there is absolute authority in——

Mr. DAVENPORT. Either large or small.

Mr. FURUSETH. You, by that, mean there is absolute authority in the employer such as is to be found in the general of an army, and absolute obedience in the employees such as is to be found in the soldier?

Mr. DAVENPORT. According to the nature of the business. Of course in the military line you have to have this authority absolute. We all know how absolute it has to be; but in its essence it has got to be the same in the industrial world. It is the directing mind that takes all of these——

Mr. FURUSETH. Right on that point, Mr. Davenport. You realize, I presume, that the General of the Army does not determine the wages of the soldiers. That is determined by somebody else. Would you have somebody else, the Government, say, interfere in any way to determine the wages of the industrial employee as it does the wages of the soldier?

Mr. DAVENPORT. Absolutely not.

Mr. FURUSETH. On that subject, then, they are not to be compared.

Mr. DAVENPORT. Of course not.

Mr. HUGHES. Mr. Davenport, you know, too, that the Government prescribes the conditions of the soldier's life—his clothing, his hours of recreation, his food.

Mr. DAVENPORT. In certain respects.

Mr. HUGHES. So there is not a parallel.

Mr. DAVENPORT. There is this parallel. We must not direct our attention to the accidental and accessory things. We are talking about the principle and the essential things. The military commander must be able to say where his company is to move; he must be able to give orders, and they must be obeyed, because collective action is

absolutely necessary to the very existence of the army. When you turn to the industrial world you have the same thing.

Mr. HUGHES. Or to the existence of the commander?

Mr. DAVENPORT. In an army it is necessary for the purpose for which it exists. In the industrial world it is just the same, in essence. Of course it is the directing mind which brings together all the forces that operate in production in order to accomplish the desired result. Now, any outside party who steps in and deprives the person who occupies that position of the power to say when things are to be bought, when they are to be made, how they are to be made, to give the orders to those who make them, and when they are to be sold—all those parts of the proceeding involve the same thing in principle as in any other form of collective action.

Now the trouble with arbitration is that it strikes at that. The man surrenders his own judgment. It is the same in regard to these collective associations of employers, where they agree together to submit their matters to the common action. It is the same way in regard to the employees, when they agree, and thereby are able by their combination to control. I trust I have made my own position clear in regard to this matter. I say that any interference by the Government along these lines is bad, and according to my idea about it, it is very much worse than any attempt on the part of individuals among themselves to do it.

In that connection I want to call the attention of the committee to one of the provisions of this bill. After the parties have entered into this agreement and the matter is before the tribunal, one party is to be deprived of the power to strike while it is pending, and the other party is prevented from discharging. Things have got to remain in statu quo between them. In the ever-varying and infinite changes that occur in the conduct of business while that matter may be pending, conditions might arise that would make it necessary for the very existence of the business, for the interest of all who have the whole or a part of their capital invested in it, to do that very thing.

The CHAIRMAN. To do what thing?

Mr. DAVENPORT. To stop work; and under the provisions of this bill it is prevented.

Mr. CONNER. Suppose in a contest between employers and employees, a question is under consideration before this tribunal. I understand it says that the laborer can not be discharged pending the investigation——

Mr. DAVENPORT. It does, under the terms of the bill.

Mr. CONNER. Do you think that would prohibit the employer from discharging a laborer whom he discovers is guilty of embezzlement, or something of that nature?

Mr. DAVENPORT. I think that would not be a fair construction of it. But I think under that provision of the bill he can not stop his business. Yet, it might be absolutely necessary to do it. That is the trouble with all measures on the part of the Government to try and interfere and regulate those matters. There are so many conditions——

Mr. CONNER. Does it not mean that he can not discharge them for the causes which bring about the investigation?

Mr. HUGHES. It simply says there shall be no lock-out, and that the conditions shall be as though the controversy had never existed.

Mr. CONNER. That is the way I understand it.

Mr. DAVENPORT. What would constitute a lock-out? The manufacturer says, "I will shut down my business; conditions have arisen which, in my opinion, make it destructive of the business if I go on." Is not that covered by this bill?

The CHAIRMAN. I would not think that a fair construction of it. I think there should be a provision as to lock-outs or strikes for the reasons set up—the reasons of difference.

Mr. DAVENPORT. Take this case for example: He says, "I can not afford to pay the wages you demand," and a party has applied for a settlement, and under the moral coercion of the necessity of recognizing this tribunal he enters into the agreement; and he becomes satisfied that not only can he not pay those wages which he has been continuing to pay and had previously paid, but that he can not afford to pay even those that he had offered to pay. Is it not the fact that by this bill he is prevented from doing it?

Mr. FURUSETH. Assuming that to be so, do you hold that to be a kind of confiscation of the property of the employer——

Mr. DAVENPORT. What? To ruin a man's business?

Mr. FURUSETH. Do you hold that to compel him to continue business against his will would be a kind of confiscation?

Mr. DAVENPORT. I certainly do. Of course, the point is that by the machinery of this bill he has agreed not to do it.

Mr. HUGHES. Is there any penalty in the bill as you have read it? Have you discovered any penalty or any punishment for such conduct on the part either of the employer or the employee?

Mr. DAVENPORT. He is subjected to whatever provisions there are in this bill which are calculated to place him in an unfavorable light before the community.

Mr. HUGHES. That is the only thing?

Mr. DAVENPORT. Is that not enough?

Mr. HUGHES. That is all, is it not?

Mr. DAVENPORT. Is not that the purpose of it? The purpose of it is to coerce by these means the employer into a course of action; but I submit that this provision is such that when it is known that it is in this bill—and I hope the public of this country will know it—the great interests of this country will appear here before this committee and express their opposition to it, because it is such an invasion of their natural privacy, which all men want and which every experienced business man knows it is necessary to have.

Why, the French Government, in its extraordinary powers of police, which apparently give to the individual in the community no liberty of person, does not undertake to do any such thing as this. You are creating a tribunal and clothing it with power to bring before it, upon the application of any individual employee, or even without the interposition of that, but upon the mere will of the tribunal, every person, and to investigate and show all his affairs and all his business; and you know how reluctant they are to comply with that, even in the case of the Interstate Commerce Commission.

Mr. CONNER. Have you studied the effect of the Massachusetts arbitration law, where it goes further than this, even, and permits the commission, before the strike has occurred, to take up of its own motion—or even after the strike has occurred, to take up of its own motion—an investigation?

Mr. DAVENPORT. I would inquire of the honorable Congressman whether under that law any attempt has ever been made to enforce it. I know very well that in the case of the strike in Lowell, which was about a year ago, I guess, the managers of those mills agreed to permit certain experts employed by the arbitration board to investigate their books to see whether or not they had been making money. That was done voluntarily by them. Mr. Arthur T. Lyman, of Boston, told me of the facts connected with their doing that thing. But either that bill in Massachusetts is a dead letter, and is not employed at all by any party, or the parties affected have refused to do it.

Mr. CONNER. You heard the statement of Mr. Whitney this morning of the case——

Mr. DAVENPORT. In 1877——

Mr. CONNER. Where a strike occurred and a tribunal, of its own motion, investigated that with good results?

Mr. DAVENPORT. I heard it.

Mr. CONNER. What I wish to inquire is whether you have made any investigation as to the working of that law yourself?

Mr. DAVENPORT. Not further than I have stated. But I put it to you, gentlemen, as men familiar with the American mind, do you believe that the American people are ready for legislation of that character, that would subject to the inquisition of a Federal tribunal, with all its machinery, the investigation of the affairs of every private individual and every corporation engaged in interstate commerce at any place that that commission may see fit to call them to? I think upon reflection you will think they are not.

MR. WHITNEY SAYS MR. DAVENPORT HAS MISCONSTRUED BILL OR WISHES TO BE UNFAIR.

Mr. WHITNEY. Mr. Chairman, the gentleman has misconstrued the intent of this bill and the plain reading of it, or else he wishes to be unfair. He has gone upon record, and it will go out to the country, as saying, "Here is a bill of inquisition into private affairs of business," etc. This bill does not provide any such thing. It simply provides "That whenever it shall appear to the tribunal that there exists in the United States a controversy," and so forth and so on, "it shall be competent and lawful for the tribunal to request both of the said parties to such controversy to submit in writing," etc.

BOARD MAY SIMPLY "REQUEST."

It states simply that they may "request." If either side refuses to comply with the request, that is the end of it. If both sides refuse to come in, you can not compel them. It is not compulsory arbitration. It is voluntary arbitration.

Mr. DAVENPORT. It is not a question of compulsory arbitration. It is a question of compulsory investigation. Do you mean to say——

Mr. WHITNEY. I have not interrupted you. Let me make my statement, please.

Mr. CONNER. The question he says is——

Mr. WHITNEY. He made a statement that might give a wrong impression. This is not an investigation of a man's private business until you get to this point. The tribunal can not go out and say, "You have got to let us investigate your books to see if this condition of affairs exists." They say: "We want to investigate. Are

you willing?" And if he says "No," that is an end of it. Then public opinion comes in and says, "These gentlemen have got something they do not want to show." That is as far as the bill goes, and public opinion must enforce the rights and claims that are involved in that condition of affairs.

Mr. CONNER. You understand that the provision about summoning witnesses and bringing the books and documentary evidence——

Mr. WHITNEY. That would be voluntary.

Mr. CONNER. Let me finish my question. Do you undertake to say that under this bill the witnesses could not be compelled to bring that testimony?

Mr. WHITNEY. Unless both parties enter into the agreement they could not. That is the very point there. This gentleman presented the idea that this tribunal could go and look into the books of any concern of its own accord. It can not do it unless that concern becomes a party to the arbitration tribunal. That is what I wish to have entered on the record.

Mr. FURUSETH. Your position is that the jurisdiction of this court is obtained by and through the agreement?

Mr. WHITNEY. Voluntarily.

The CHAIRMAN. By the consent of both parties?

Mr. WHITNEY. By the consent of both parties. The results of arbitration in England on this point are summed up here, Mr. Chairman:

When formerly it was almost impossible for men to know the facts concerning the state of trade and the prices of raw material and finished product, the desired information is now secured by the aid of audits by trained accountants, and the knowledge so acquired has satisfied the men as nothing else could, and the confidence thus given has not been violated.

That is the result of these investigations in England.

Mr. BEEK. From what does the gentleman quote?

Mr. WHITNEY. From different bulletins of the Labor Bureau down here—the Bureau of Labor Statistics.

Mr. BEEK. It is not authoritative, then?

Mr. WHITNEY. Yes; it is.

Mr. BEEK. They have not any Governmental authority?

Mr. WHITNEY. They are published by the United States Government.

Mr. BEEK. That is what I want to get at.

The CHAIRMAN. By the Department of Labor.

Mr. DOWNEY. Do we infer that there is compulsory arbitration or investigation upon the part of the Government in England?

Mr. WHITNEY. No; it is voluntary.

Mr. DAVENPORT. I will ask Mr. Whitney if it is his construction of this bill that if the employees of any concern engaged in interstate business bring a petition to this tribunal and the investigation is not then——

Mr. WHITNEY. The employees can bring their petition of claims and demands and present it to the tribunal. If the employer refuses to come in, that is the end of it. The board would publish the claim and set out what they claim is right and just.

Mr. DAVENPORT. Have you considered this language, after having described what the petitioner may do—"that the tribunal, or any one member thereof, shall have power," etc., relating to any matter under investigation?

Mr. WHITNEY. What page do you refer to?

Mr. DAVENPORT. The bottom of page 13 and top of page 14.

Mr. WHITNEY. After it acquires jurisdiction by voluntary agreement it can.

Mr. DAVENPORT. And at the bottom of page 15:

The testimony of any witness may be taken at the instance of a party in any proceeding or investigation pending before the tribunal——

Mr. WHITNEY. After it has jurisdiction by voluntary agreement it can. Your position puts it in the position of a regular board of inquisition.

Mr. DAVENPORT. Absolutely, according to my interpretation of the language, that is what is meant?

Mr. HUGHES. As I understand you, Mr. Whitney, there is not any desire on the part of the people who are interested in this legislation that this bill should have the powers attributed to it——

Mr. WHITNEY. Absolutely not.

Mr. HUGHES. By Mr. Davenport?

Mr. WHITNEY. Absolutely none.

Mr. HUGHES. And if it had those powers you would suggest that it be amended?

Mr. WHITNEY. Why, the American people would not stand for that a minute.

Mr. HUGHES. You think the power to issue subpœnas and take evidence and investigate the affairs of manufacturer, or employees, can come to the tribunal only after both parties have submitted and they are at issue?

Mr. WHITNEY. Yes, sir; that is what the bill says.

The CHAIRMAN. Section 10 provides it.

Mr. WHITNEY. The gentleman presented an argument which would arouse the country if it went out in that form. That is why I object to his construction.

Mr. DAVENPORT. If the construction which I contend for of this bill is correct, you think it would arouse the people of this country if passed?

Mr. WHITNEY. Why, surely it would.

The CHAIRMAN. Mr. Davenport, if your view is correct, and it should be amended so that it did not so provide, except in cases where both parties agree, your views would still be the same?

Mr. DAVENPORT. Oh, certainly they would.

The CHAIRMAN. Does the committee desire to sit any longer? It is now 1 o'clock.

Mr. HAYDEN. May I inquire if any further hearings will be given on this bill in the subcommittee?

The CHAIRMAN. I think they will. There are several gentlemen who can not be here at present who have asked for hearings. Judge Gray and Bishop Spalding, and the real author of the bill, Mr. Foster, who is sick and has not been able to get here.

Mr. HAYDEN. I have no doubt that clients of ours will wish to be heard, or will desire to file some matter, at any rate, if there is no objection to it.

The CHAIRMAN. Whom do you represent?

Mr. HAYDEN. The Carnegie Steel Company, almost certainly, at any rate, if not others.

The subcommittee, at 1 o'clock and 5 minutes p. m., adjourned until March 29, 1904, at 10.30 oclock a. m.

NATIONAL ARBITRATION BILL. H. R. 9491.

WASHINGTON, D. C., *Wednesday, March 30, 1904.*

The subcommittee met at 10.30 o'clock a. m., Hon. Edward B. Vreeland in the chair.

STATEMENT OF HON. GEORGE E. FOSS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS.

Mr. Chairman, I desire to introduce Mr. Volney W. Foster, who is a constituent of mine and also a prominent citizen from the city of Chicago.

I may say that I introduced a bill, which is known as H. R. 9491, to create an international arbitration tribunal and to define the duties and powers thereof, at the request of Mr. Foster. Mr. Foster is himself the author of the measure, and appears to-day before this committee to speak concerning it.

I may say of Mr. Foster that he is a practical man of affairs, has large interests, has been a large employer of labor, and yet I do not believe he ever had a strike. He is not only a practical man of affairs, but is a student of questions which are now interesting the public. He has spent a good deal of time in consideration of this great question which is before you, the reconciliation of labor and capital, the two great forces of our industrial system; and I bespeak for him your attention and consideration to what he has to say.

STATEMENT OF MR. VOLNEY W. FOSTER, OF CHICAGO, ILL.

As you are all advised of the bill and no doubt have read it and understand the different elements of it, I shall not unnecessarily take your time to repeat in a general way that which you will probably care to deal with in detail. It might be well for me to say just a word about the method of thought that induced me to endeavor to make application of these principles in a practical way to the solution of the difficulties arising between employer and employees.

It began with an abstract consideration of what is called public opinion, a thing that is thoroughly well recognized and sometimes greatly feared in its spontaneous and ill-directed movements. That it is a force there can be no doubt, and the question was in my mind whether it could be scientifically directed, through reliable and responsible channels, to become a compelling force to those who were at least in danger by their behavior of disturbing the peace and prosperity of society.

FIRM CONVICTION BILL WOULD SOLVE GREAT DIFFICULTIES.

In dealing with this subject, first in an abstract way and later in the attempt to make an application of the principle, there came to me the firm conviction that a bill of the character that is now before you, or one modified perhaps in some particulars to make the intent more clear, or amended perhaps to be more forceful and if possible more equitable, would prove a solution of our greatest difficulties.

There is no doubt that the *public weal is the paramount question, and while the individuals engaged in controversies, the employer and employee, suffer greatly, the general public suffers still more, which gives a sufficient reason why an attempt should be made to induce and invite peace between these two great forces.* I know of no higher tribunal to deal with these questions than men selected from among those that have the universal respect of their fellow-men, who are known for their wisdom, their patriotic devotion, and for all those attributes that would distinguish them as arbitrators in the affairs and differences that may arise between these two forces.

The law as its exists may compel obedience to its statutory enactments, but in dealing with this great question we have sought for a more comprehensive consideration than is given by the technicalities of the law, the moral obligation of man to man is to be considered in the proposed adjustment of such difficulties.

So I submit to you that this bill is intended to be a bridge, one buttress of which would rest upon the law and the other upon the well-recognized practical moral obligations of man to man that have not yet passed over into law, and on the middle of this bridge that this tribunal of honorable men may stand to combine all these elements as a moral, compelling force, to make peace and to multiply prosperity.

A PRACTICAL QUESTION.

I feel almost like apologizing to you to deal with this subject in this abstract and academic way. To you and to me it is not an academic question; it is a practical question. I have been an employer of labor, but before that I was engaged in every kind of common labor—not skilled, I was not skilled—that any of you or any of your constituents have been engaged in. Therefore I do not speak as one who does not know.

It would probably economize your time if we dealt section by section with the bill, that we may discover those parts that compel your adherence and consent, and other parts that may not be so clearly stated as they should be, and perhaps, also, there may be some suggestions, some amendments, to make more effective the original intent and undertaking in the formulation of the bill.

HOW BILL WAS PREPARED.

I may say to you that the bill was first formulated as a printer's proof, and upon it was left a wide margin, and it was sent to many people. It was sent to employers and representatives of labor. They were asked to make notations upon the margin, to the end that the finished work should be the result of many practical minds. To these communications many answers were received. Some of them were of

practical value; some of them commended the bill outright in rather glowing terms, with no further comment, which was of no particular use; others condemned the bill outright, with no explanation, which did not help very much. But there were others, again, that took the trouble to read carefully and discuss the merits of certain phases and clauses—to raise questions, which, being answered, improved the text of the bill.

I will be very glad, if it is your wish, to take the bill up, section by section, declaring in advance that there is no pride of opinion about it. The work we have undertaken is so much larger than any man that he would only diminish himself to nothingness if he showed a special pride that his small name should be connected with so great a movement.

There is no word in the bill that I will not be glad to change to a better word. There is no sentence in the bill that is not at your disposal and with my consent, if we can make it clearer along the humane, the intelligent, and patriotic purpose that lies beneath the undertaking.

Mr. VREELAND. I would suggest, Mr. Foster, that you complete the matter in your own way, whichever way you think would be most effective. It may be that some gentlemen present desire to get your opinion as to the meaning and effect of some of the clauses of the bill.

APPOINTMENT OF MEMBERS OF TRIBUNAL.

Mr. FOSTER. The first section of the bill provides for the appointment of the members of the commission, and provides that the Secretary of Commerce and Labor shall be ex officio a member of the tribunal, but without any power to vote. I would be glad to know if there is comment upon this particular section or suggestion for a change.

Mr. VREELAND. I think the earlier sections of the bill may be passed over unless some gentlemen have questions to ask about them.

Mr. MADDOX. I think it would be a good idea for Mr. Foster to go on and explain it and give us an idea of it, and then we can ask you such questions as we desire.

Mr. FOSTER. You would like me to speak of the various sections?

Mr. VREELAND. Giving so much attention to each one as you think best, and I would suggest that the main part of your time be given to the latter sections of the bill. The machinery of the bill is a matter of detail. It is the purpose and the text of it, I suppose, that we would like to hear you upon.

Mr. FOSTER. The suggestion or the form of the bill in its initial part, including the Secretary of Commerce and Labor as a member, was made after careful consideration. It was believed that the information at the command of the Secretary of Commerce and Labor, that would be by the time of operation of such a bill well equipped, and have had considerable experience, and would be extremely useful to the tribunal in the obtaining of information, and, therefore, it was suggested that the Secretary of Commerce and Labor be ex officio a member. The provision was made that he should not vote.

TENURE OF OFFICE.

You will observe that the period of tenure of the proposed members of the tribunal reaches beyond an administration, and therefore these

would not be called properly administration representatives; but the Secretary of Commerce and Labor would and must be a representative of the administration, and therefore it was thought best that he have not the power to vote.

Mr. DAVENPORT. May I ask a question for information on that first section?

Mr. VREELAND. Yes, sir.

Mr. DAVENPORT. I notice there is no limitation of any kind put upon the qualifications of the members. For instance, in regard to railroad conditions, boards of railroad commissioners, there is always a provision looking to familiarity on the part of the member with the particular kind of business. There is no qualification that I can see required, either political or otherwise, and does not that first clause provide for the establishment of a political tribunal?

Mr. FOSTER. Your last question is: "Does not the first clause provide for a political tribunal?"

Mr. DAVENPORT. Yes; that it may be created as in the judgment of the President, if he sees fit, and without any reference whatsoever to the technical or other qualifications of the members?

Mr. FOSTER. The point that you make was considered. The number of the tribunal to be appointed is small, and when specifications and limitations were considered it appeared to us that *it was wiser to leave that matter to the President of the United States.*

OPERATION OF BILL INTERSTATE.

Mr. MADDOX. I would like to ask you one question on this section. Is it your idea that this bill shall operate outside of the District of Columbia and the Territories?

Mr. FOSTER. Interstate, yes.

Mr. MADDOX. Do you think you can do that? Has Congress the power to do anything of that sort?

Mr. FOSTER. Interstate business?

Mr. MADDOX. Interstate business, as I was going to say——

Mr. FOSTER. State affairs?

Mr. MADDOX. The local business of yours in Illinois, for instance?

Mr. FOSTER. The bill was specially drafted to avoid the objection of the constitutional lawyer.

Mr. MADDOX. There is one other suggestion that I would like to make, or, rather, would like to hear you explain, and that is the idea of having the home of this body at Washington City. Located here, would not that often be very inconvenient in arbitrating, for instance, a trouble in the West, or on the Pacific slope, or in the South, or way up in the East?

Mr. FOSTER. It is necessary that the tribunal have a habitat. It is provided, however, in the bill that meetings may be had at other places.

Mr. MADDOX. Well, does it not cease to be a question of arbitration? In other words, an arbitration when the court is already selected for the parties, does not that take it out of the very idea of arbitration? For instance, we would establish this court and they were to decide on certain principles. Say, for instance, against the manufacturer, or, to reverse it, against the laborers. The next arbitration would come along. These people in all probability would not consent because they

would object to the court; they would be going before a court that had already committed itself on a line of policy. Did you consider that at all in making up the bill?

Mr. FOSTER. It was considered.

Mr. MADDOX. I wanted to call your attention to it; I am not expressing any opinion about it.

Mr. FOSTER. It was considered that there might be recalcitrants, but also it was considered that the penalty prescribed was sufficient to compel consideration.

Mr. MADDOX. There is another item. The laborers have an association—that is, union labor has an association—but they are not chartered. They come to you and they will arbitrate with you representing manufacturers. They will arbitrate with you as an association. How can you hold them liable? Haven't they got to have a charter before you can do anything with them? Is it not mere child's play unless they are chartered? How can you compel them to do a thing? I want to hear you on that line.

Mr. FOSTER. Yes. It is believed by those who gave diligent attention to this bill that when bodies of men known by a particular name—a union or an organization or an association—made a complaint signed by their responsible officers, and evidence was given that they were representative—that they have become morally incorporated, which is the larger part of the proposition—and whether they had a little money in the treasury or not is of less consequence.

Mr. MADDOX. I confess that is true morally, but we do not want to go into child's play; we want them to be legally bound, if we do anything at all.

CONFIDENCE IN MORAL FORCE OF PUBLIC OPINION.

Mr. FOSTER. You will discover running all through this bill a confidence in the moral verdict of the tribunal and the moral and actual force of public opinion. Those who do not believe in that at all will believe that this bill is of no consequence whatever.

Mr. MADDOX. I would not hardly think that, because I am in hearty sympathy with the movement, if we can ever do it to make it binding, if we can make it successful, I would like to see that done.

Mr. FOSTER. You must have confidence in the moral force that there is in such a bill in order to believe in its efficiency.

Mr. MADDOX. When you go to courts and begin to deal with these things you will find that you fall very short of your idea, and the fixed arbitration would probably do away with the efficiency of your very idea itself. They look upon it as a court. They would fail to agree; they would decline to go into that court, in other words, or have anything to do with it.

Mr. FOSTER. I do not think so.

Mr. MADDOX. In the question of arbitration, you see, one side would like to select its own arbitrators and the other side its arbitrators.

Mr. FOSTER. If this court has the power and the influence in a negative way of compelling those having differences, rather than to be crowded into this court of public opinion, to arbitrate in their own way, it has accomplished its purpose.

Mr. MADDOX. I do not want to interfere with you; go ahead.

Mr. FOSTER. You are not interfering, but assisting me greatly,

because I am not able offhand to discuss each one of these features by the light of criticism that may be made; but it will greatly assist me if we may have some discussion such as you have suggested to bring out these ideas that I may answer, if I can, and confess if I can not.

Mr. FURUSETH. I would like to ask a question.

Mr. VREELAND. Very well, sir.

Mr. FURUSETH. I presume we can call this a court, since it has got the power to hear and determine.

Mr. FOSTER. Why not call it a tribunal?

Mr. FURUSETH. All right.

Mr. FOSTER. It is an elegant word.

Mr. FURUSETH. This being a court or a tribunal appointed with no specific technical knowledge, with no special preparation, so as to determine facts from an industrial point of view, should it not be proper, then, since this court is sitting to determine law and morals, to have an industrial jury going with it, so that they could determine the facts, pass upon the facts like any other jury, for the benefit of the court; would not such a force be necessary in order to prevent the court, either through bias or industrial ignorance, doing an injustice to either side?

Mr. FOSTER. In answer I would say that I do not think it fair to suppose that our President would appoint upon such a tribunal men that were disqualified to carry out its functions.

Mr. FURUSETH. Upon that proposition I beg to submit to you that there would be no reason for having a jury under any circumstances, because it is not to be presumed that the President, who appoints a United States judge, would appoint such a person as should need the advice of the jury on the facts before he applied the testimony or digested the testimony and rendered his decision.

Mr. FOSTER. *I think that the experience recently had in the anthracite coal strike would illustrate the practical way in which a President would deal with such matter in the appointment of such a tribunal.*

Mr. FURUSETH. In that particular case were not men appointed with a particular view to the particular situation at hand?

Mr. VREELAND. And nominated by the parties themselves?

Mr. FURUSETH. So that they were presumed by the public, as well as by the President and by the parties in question, not only to have the necessary honesty, the necessary legal acumen, but also the necessary industrial understanding? Now, on this tribunal there would be six men appointed from anywhere in the United States. If a question was referred to them in regard to some seamen, the life and conditions that surround sea life might be entirely unfamiliar to them, and with all their honesty and with all their acumen they would know no more about the question at issue than probably you would know yourself or any man who has never followed the sea.

Mr. VREELAND. I would suggest that interruptions should be for questions only and not for argument. Any argument you desire to present you will be able to present in your own time.

Mr. FURUSETH. Yes, sir. How could this Commission deal with that particular question satisfactorily?

DOES NOT BELIEVE BUSINESS IS VERY MYSTERIOUS.

Mr. FOSTER. I am not of those who believe that the affairs of human activity called business are very mysterious to intelligent minds. I

believe that when you have unraveled any of these apparent situations that you find that there are *not more than five or six great underlying principles in the industrial contests between men, and, therefore, I do not place the value upon this technical knowledge which you urge.* It is not what a man knows, but what a man can find out, that would make his judgments valuable. I think that a great deal of technical knowledge on a particular subject that is under consideration by a tribunal would be a damage to the man that was undertaking only to discover the moral relations of the parties to each other, and the equities, and to decide upon them.

TOO MUCH TECHNIQUE EMBARRASSES.

I believe that the man of too much technique on a particular business would be embarrassed by it in arriving at a judicial decision. That, however, is not meant to say by any means that the President might not appoint men with such knowledge as John Mitchell had of the coal business. But I think that it is a more dignified document that leaves our President and the President's successor, whoever he may be, to make his selection of these men in his own way. I think that those standing for particular representation need not be discouraged by past experience by any means, because if the methods were followed that we all know of in that precedent, representation of labor would be had.

Mr. DAVENPORT. Would it not be better in the opinion of the author of this bill if the same course were to be pursued in regard to any controversy that was pursued in regard to the anthracite coal strike controversy, by providing that whenever a controversy arose the President, upon the nomination of the parties agreeing to it, should appoint persons from among those whom the parties designated, instead of having a tribunal of limited number, who could not of course know all the innumerable industries that might be affected, and thus have a tribunal composed of men satisfactory to both parties? And right in that connection, following out the suggestion of Congressmen Maddox, by this bill, if one party requested and the other party agreed to it, it becomes an agreement between the parties.

Now, it is true, that so far as this bill goes and the provisions of it—so far as this tribunal is concerned—the party that does not adopt it is published, but they have made a binding agreement. Now, the manufacturer would be bound by that agreement the same as anyone else; the labor union party would be bound if it was incorporated; perhaps the individual members would be bound. But is it not true that when parties have made an agreement that the courts of law can step in and enforce the award exactly as they can in controversies between individuals? If the chairman and I have a controversy and we agree to submit it to Mr. Gompers for decision and he renders his award, that award can be enforced by the courts. Now, is not the condition that would result from such an agreement such that steps could be taken against the manufacturer, at any rate, to enforce obedience by the process of the courts, or, vice versa, the union? In effect have you not provided here that the agreement underlying this matter becomes a binding agreement between the parties, enforcible the same as any other agreement or any other award through the regular machinery of the courts? It is true that so far as this tribunal is

concerned, its measures are publication and holding the parties up to the effect of public opinion, but it is not——

Mr. VREELAND. The Chair would suggest again that you should confine yourself to questions, and make your argument in your own time.

PUBLICATION OF FACTS IS PENALTY.

Mr. FOSTER. I should say, in answer to the gentleman's question, that *the bill provides its only penalty, and there is no other that could be applied under the bill, namely, publication of the facts.*

Mr. FURUSETH. Would not the bill create a condition that would legitimately go before an equity court for enforcement?

Mr. FOSTER. No; I think this bill, standing as a whole, provides its own penalties. If there is a danger of that, this is the time to add any language that would make that impossible, because it is not the intention of the author of the bill.

Mr. VREELAND. Mr. Foster, you have given this a great deal of attention. I would like to ask a question that goes more to the foundation of all arbitration, namely, whether there is any fixed and ascertained and established and accepted basis of truth in relation to these matters for a tribunal to ascertain and report and determine. That is, the employees from a given factory ask for an increase of wages, appeal to the tribunal. Both sides accept it and they start in to ascertain whether an increase of wages should be given. They ascertain that the earnings of that plant are, we will say, 8 per cent a year net, or 12 per cent, or whatever they are. The owners of the plant insist that that is too small return for the capital and work which they have put into it; that it should be larger. The other side, on the contrary, maintain that it is too large; that the employees should have a larger portion of the earnings. Now, what accepted basis is there for the tribunal to fix upon? Who shall say what is the proper return which the owners of the capital or the employees should have? On the other hand, if it is a question of shorter hours that they strike for, what can the tribunal say, how can they determine what shall be the accepted number of hours which men should work?

Mr. FOSTER. You are speaking now, Mr. Chairman, of the operation of the human mind with much evidence or little evidence in determining truth, which I conceive is a shifting sort of a thing, and toward which we are making excellent progress, but not in a direct line. We should be left to the conclusion of such a tribunal, which I am willing to believe would be as near fair as the judgments of men, and on those we are dependent for our life and liberty and comfort in all the directions of life. If you question how, with what method, men shall arrive at conclusions, I suppose it would be the old method of using their best intelligence, considering the best evidence that might be brought before them, or that they could discover. That they would err is more than likely, but that on the whole they would make great progress is also very likely.

Mr. HUGHES, of New Jersey. In the State of New Jersey we have an arbitration board modeled, I should say, somewhat on the lines of this, having about the same power, and no doubt able to inflict the same penalties, whether given by the act or not. We find that that board never settles an industrial dispute. The mere fact that one side of the controversy is willing to submit to the court seems to be a good

and sufficient reason why the other side should refuse; and I want to ask you if you will take that into consideration and find out, if you can, what there is about this measure, or about the tribunal that would be created under this measure, which would enable you to differentiate it from the arbitration board of the State of New Jersey?

NATIONAL TRIBUNAL WOULD HAVE FORTY-FIVE TIMES THE DIGNITY OF A STATE TRIBUNAL.

Mr. FOSTER. Well, I think that a national tribunal would have more than forty-five times the dignity of a State tribunal. The experience of New Jersey is not very different from some other States that have had arbitration commissions. What is the matter with their machinery, or why they do not command more respect, I do not know. I would not like to try to analyze that.

Mr. HUGHES, of New Jersey. There seems to be a sort of an idea that these places are regarded as places for—well, more or less political patronage.

Mr. VREELAND. Is that not the case with the State tribunals as a rule?

Mr. FOSTER. I think so.

Mr. VREELAND. That the salaries are so small that they are appointed by political power as a political reward for those who are active, and that they are not entitled to the respect that they must have in order to be effective?

Mr. FOSTER. I think that is quite true. They are not surrounded by dignified conditions in the first place, which would, of course, involve the compensation and the character of men.

Mr. FURUSETH. On the point raised by the chairman here I would like to quote a concrete instance. Men work for $25 a month and conceive of that as being too small an earning upon which to feed their family. The employer wants to reduce it to $20 per month, as being all that the employer says he can pay. Would it not be likely that the tribunal would come to the conclusion that the middle sum between the two would be a reasonable one, and award $22.50, which would certainly be still more inefficient to support a family?

Mr. FOSTER. You are speaking of that tendency in arbitration to split the difference. Of course this particular case to which you refer would be a very sad one. Twenty-five dollars a month would be very small wages; but I think your purpose was to illustrate the principle of splitting the difference.

Mr. FURUSETH. No; my purpose was, How will they get at it? There is a difference of opinion between the employer as to what he can pay and the employee as to what he can afford to work for. The employee says, "I can not afford to work for what I am working for; I want more." The employer says, "I can not afford to pay what I am paying now and run my plant; I must pay less." How is that tribunal going to act? What is there that can govern that? Will they not necessarily come to a splitting of the difference, or, even assuming that they take just the position as it stands and make it stand in statu quo, will it not be still an injustice?

QUESTION OF SPLITTING OF DIFFERENCE.

Mr. FOSTER. It was suggested to me by Mr. St. Clair that what the commission would do would be to take the evidence and hear the facts,

and might not determine for either or that either would be pleased with the verdict. Now, in regard to splitting the difference, there is a special clause in this bill that is intended to do away with that. Such have been called courts of injustice and have caused great dissatisfaction. Splitting the difference where they were in doubt and without taking much evidence—just splitting the difference. You have observed that the bill provides that the decision of the tribunal shall be affirmative or negative on each proposition presented. That looks arbitrary, but you will find further in the bill that at any time during the proceedings either party may amend his demands. For instance, we will say that a labor organization has demanded an addition of 50 cents per day, or so much per hour, and they find, as the testimony is offered, that they asked too much. They come to that conclusion. They may then amend and say, "We amend to 40 cents; we desire to amend our petition."

Mr. FURUSETH. In other words, the men will split the difference in spite of the court?

Mr. FOSTER. Yes; they may do it.

Mr. GOMPERS. Supposing they do not; suppose either party fails to amend its claim or contention?

Mr HUGHES, of New Jersey. Then the decision must be affirmative or negative.

Mr. FOSTER. Then they have two statements before them, and they must form their conclusion from the evidence that is before them?

Mr. HUGHES, of New Jersey. And must form their opinion one way or the other?

BILL DOES NOT PERMIT CONCILIATION.

Mr. FOSTER. The bill also provides that they make such recommendations, amendments, and so forth, as will serve to settle the difference, or words of that effect. This bill does not prevent conciliation. That special clause was added to remove that objection.

Mr. FURUSETH. One more question on that subject, Mr. Foster. "*Determined by the evidence before them.*" Then it would really amount to this, would it not, that those who could afford to furnish the evidence and the most skilled and capable men to bring it forward would necessarily have the best of the situation?

Mr. FOSTER. I would not be willing to grant that there is anything so mysterious about the stating of the rights and equities of those individuals contesting as that genius or cleverness could make the worse appear the better reason. I think it would be very dangerous, with a tribunal of such men as is contemplated here, for either of the parties to get a clever, shrewd man to present its cause and endeavor to magnify the merits of one side and to diminish and minimize the merits of the other side. He would be more than likely to get caught at it, and I do not believe there is any danger along that line.

Mr. MADDOX. Do you not think it would be an improvement on your bill if the President was given authority to appoint, say, seven commissioners—not permanent appointments by any means, but provided for this board as you would see proper, providing them with a clerk—and, say, that the Secretary of Commerce shall be associated with them, but not have the right to vote, and have a permanent organization and place of abode, but still give the President the right in each case to

appoint the arbitrators, and, for instance, say the two sides should suggest 15 names to the President, the labor organization might send up 15 names, and the President should select three of those? On the other side, let the same thing be done; the employers would do the same thing. The President would appoint one then, besides the six so selected, upon his own responsibility, the seventh man to meet on each occasion. Do you not think that that is more nearly the idea of arbitration, and that that would avoid the difficulties they talk about in these State boards?

ADAMS BILL.

Mr. FOSTER. You are now referring pretty nearly to the bill formulated by Mr. Charles Francis Adams that relates to a special tribunal. I met Mr. Adams and talked with him somewhat about it. I did not know about it at the time I undertook to write this bill, but he called my attention to it, and so, as kind of a compromise, we added the special members to this permanent tribunal. That is to say, that the President may, on his own motion, in any particular case, appoint two members, and shall, upon the request of the tribunal, appoint two additional members for such special case.

BELIEVES IN PERMANENT, NOT SPECIAL TRIBUNAL.

So we have in that the merits of a permanent tribunal and also of a special tribunal. I do not conceive that if this is to be a useful, dignified, abiding, permanent arm of our Government that it would be best that each particular case should have a full, special tribunal appointed for it. I think there might arise much confusion if that were so. I believe that a tribunal organized as proposed would acquire information and would establish precedents which would be of value. With a special tribunal you have not either the value of precedent nor the value of the particular testimony heard shortly before on a particular case, which perhaps was on all fours with the one that is before it. That is wholly lost with a special tribunal.

Mr. VREELAND. That is, you mean to say that the permanent bureau becomes skillful and can determine in much less time and more accurately than a new set of men any question that comes up.

Mr. FOSTER. I think that would be true of any department.

Mr. HUGHES, of New Jersey. I heard the chairman (Mr. Gardner) suggest that it was a danger to be avoided, the having of a line of judicial decisions, rather than a succession of arbitrations. What do you think of that, Mr. Foster?

Mr. FOSTER. If by judicial decisions you mean a record of conclusions in regard to similar circumstances—but they would not have the power of judicial decisions, not at all.

Mr. HUGHES, of New Jersey. There would be a sort of a tendency that way.

Mr. FOSTER. It would be recorded information; that is all.

Mr. VREELAND. Mr. Maddox was suggesting that a permanent tribunal is a court which has its own precedents, and must as near as possible adhere to its own decisions in each case, making each case consistent with others. That would raise the question as to whether such tribunal must not establish, for instance in manufacturing, what ought to be a return to the employer from the capital invested, what

ought to be the hours of labor which the employees should work, and to apply those rules consistently in similar cases. How would they avoid doing that? Whereas a temporary tribunal would probably be, as it usually is, a series of compromises in each individual case. And, next, can anything better be arrived at than compromises?

Mr. FOSTER. It was believed by those who were interested in the formulation of this bill that this was better than the compromises of the ordinary spontaneous arbitration.

TRIBUNAL WILL HAVE LARGE INFLUENCE.

We are supposing that this tribunal being established will have a very large influence to invite arbitration on the part of those differing.

Mr. GOMPERS. Mr. Foster, you said in beginning your answer to the last question, "those who were interested in the formulating of this bill," and so forth. Will you kindly advise the committee who were interested in formulating this bill?

Mr. FOSTER. I don't know that I could give you an inventory of all the names, or that it would be of special value if I did so. Inasmuch as I must stand for all the errors in the bill I would like to claim the merits of it.

Mr. GOMPERS. I simply asked the question because you mentioned it. I would not have done it otherwise.

Mr. FOSTER. I spoke editorially, Mr. Gompers.

The CHAIRMAN. Mr. St. Clair, of West Virginia, would like to say a word.

STATEMENT OF MR. J. W. ST. CLAIR, OF WEST VIRGINIA.

Mr. Chairman and gentlemen, it seems to me if you are to have arbitration at all under the domain of the Federal Government it ought to be a permanent board, for the reason that my experience has been that in the States where we have arbitration statutes of a general character or where they have arbitration statutes for labor controversies the tribunal selected is made up primarily of the partisans of each side of the controversy. If a man has a civil suit, if he is the plaintiff and determines to arbitrate under the State statutes rather than go to the court and jury primarily, he has the right, as a rule, to select one arbitrator, and the man he selects will be as much his partisan as the hired lawyer who may present the case. And so it will be on the return side. And the umpire will be the man, as a rule, who has to finally dispose of it. And you have, I say, in a tribunal, if it be a board of an odd number, the same number of partisans rather than disinterested, impartial members of that tribunal.

I have had considerable experience under these statutes, and as a general proposition arbitration of civil rights in a State has amounted to nothing where it has been provided by law, because the courts have been called upon in a great majority of the cases to interpose to review (even if the equity side of the statute itself did not provide for it in an important case), to set aside and rescind the action of this board because of some irregularity performed by the one side or the other in the tribunal itself.

Now, I will say, if you are going to have in this country an arbitration statute the only way you can successfully, or the way you can most successfully establish it, to my mind, is to have the President

vested with the power to select the members of that board from the body of the country. With reference to what? Primarily, their integrity and their intelligence for the work they have to do. He has before him the contemplation that this board of arbitrators will have to pass upon not one question, but all the questions that ramify the manufactures, in fact, the produce of the country; and he will make up that board with reference to this great variety of cases and questions that would undoubtedly be presented to it in the course of its administration, and will select not a partisan tribunal, not a man in the interest of labor, or a man in the interest of capital, but broad-headed, fair-minded, and honorable men. And when such a tribunal is selected, Mr. Chairman, that tribunal will have the inherent power not to stop where the partisans to the controversy may want to stop the inquiry, not to be concluded by what the one side or the other side may produce by way of testimony, but to make any inquiry that the commission may deem proper to make, and that will draw to it the best information that can be adduced on that particular subject.

Now, when that is done they won't establish any particular rule, Mr. Chairman, that will apply in all cases. It is true that in some instances in this country the conditions are exactly similar as to the employment or employer or employee, but in a great majority of instances the conditions are dissimilar, and while it may be fair, just, and morally right to determine upon a scale for a particular work at a particular place producing the same article, the conditions might be so different in some other point, the cost of living to the laborer might be so different, the cost of raw material to the manufacturer might be so different in some other place, that the same rule, do you not see, Mr. Chairman, could not consistently apply to the two localities. So it would be as to a day's labor. The character of the labor might be such that the man ought not to work more than a given number of hours. The conditions under which he has to labor might be entirely different, I say, in all respects in different localities, even in the same class of work.

I have hastily glanced at this bill. The rules of procedure of course would be determined under this act of Congress by the commission itself; but the commission has the power under this bill to re-form the pleading or to go beyond the pleading.

The main point in this bill is to have intelligent, comprehensive, fair, and honorable determination of all matters that are submitted to it.

If you are going to have arbitration, to my mind the theory of this bill is right.

Mr. MADDOX. Do you not think we ought to change the name of the bill, under your idea, and make it a court? According to the ideas that you advance it seems to me that the arbitration idea is out of it entirely, and that it becomes a court, because the court idea is to follow precedent and become expert. That is not the idea of arbitration at all. I do not say it may not be better to have it the way you suggest, but the arbitration feature certainly goes out of it then.

Mr. ST. CLAIR. I had not thought about the name. In fact I am not very familiar with this bill.

Mr. VREELAND. The point is that it performs the functions of a court, becoming skilled in all kinds of cases, and experienced, and gives to each particular case the benefit of its particular skill as a court might apply it.

Mr. ST. CLAIR. It strikes me that you can never under this bill

eliminate the idea of arbitration. It does not make any difference what you call it, because it is constituting a tribunal for the purpose of determining differences between parties in controversies involving the employment of labor.

Mr. VREELAND. Of course, the great difference would be that a court has power to compel parties——

Mr. MADDOX. I asked a question before you came in, Mr. St. Clair, which I will repeat. How are you going to compel these people that are not incorporated and have no charter or anything of that sort to submit to this court?

Mr. ST. CLAIR. There is nothing in this bill, as I understand it, to compel anybody to submit.

Mr. MADDOX. What do you want child's play for, then? They come up here and arbitrate and then go back and repudiate; the laborers may do that, or, on the other hand, the manufacturer may do the same thing.

Mr. ST. CLAIR. I suppose, Mr. Chairman, that the great underlying principle in this bill is to bring to bear on whatever controversy there may exist public opinion——

Mr. MADDOX. I do not know that you are a lawyer, but I imagine that you are a lawyer of considerable experience.

Mr. ST. CLAIR. Yes; I have had some experience.

Mr. MADDOX. You know about what that is worth when it comes down to business. If it were a court, you would have something that you could rely on.

Mr. ST. CLAIR. I must say this: That in my experience of thirty years in dealing with labor, whenever I have had a controversy public opinion was a mighty handy thing for me to have around.

Mr. MADDOX. It is in courts, too, when you are trying a case. It is a good thing to have public opinion on your side then.

Mr. ST. CLAIR. The purpose, as I see it here, is that if you are going to have arbitration in this country at all, it is to make a condition that will produce before the country—the public—the questions that are involved in whatever controversy there may be.

Mr. FURUSETH. I would like to ask the gentleman whether this is not really the meat of the bill:

> And said petition shall express also a full agreement, in such form as shall be perscribed by said rule, on the part of the parties to said agreement, to accept and abide by the decision of said tribunal as to the matters involved in said petition and to accept said decision as a final and binding award upon the parties thereto.

In other words, is not the whole meat of this bill a way to obtain jurisdiction?

Mr. FOSTER. No, sir. If you get that meaning out of the bill, then we ought to change its wording so that nobody would possibly interpret it in that way. It ought to be done now.

Mr. GOMPERS. But does not, as a matter of fact, that language convey that thought?

Mr. FOSTER. No. *The only penalties that are prescribed are the penalties prescribed right here; there are not others.*

Mr. GOMPERS. But there are other methods prescribed by the ordinary process of law—of present existing law.

Mr. FOSTER. I should say this bill would stand by itself; that law would not intervene to interpret it beyond the language of the bill.

Mr. GOMPERS. In other words, that all common law, constitutional

law, and statute law would have no effect or influence upon this bill if enacted into law?

BILL STANDS BY ITSELF.

Mr. FOSTER. That is a pretty sweeping kind of a statement——

Mr. GOMPERS. That is just the position.

Mr. FOSTER. No; it stands beside itself. It is founded upon common law, the common privilege, the privileges and rights we enjoy, of making covenants with each other for the establishment of just such tribunals as this.

Mr. FULLER. I wanted to ask Mr. St. Clair when he spoke of dealing with labor whether he meant as an employer or from a legal standpoint?

Mr. ST. CLAIR. Both ways.

Mr. FULLER. I wanted to ask him whether he is an employer of labor?

Mr. ST. CLAIR. Yes, sir.

Mr. FULLER. What business?

Mr. ST. CLAIR. Coal mining.

Mr. GOMPERS. In West Virginia?

Mr. ST. CLAIR. Yes, sir.

Mr. FOSTER. I may say that I had the pleasure of making Mr. St. Clair's acquaintance at the Arlington Hotel. A mutual acquaintance introduced me, and I pursued him up to his room, where the doctor was taking up most of his time, but I got him a little interested in this, and I think he is quite right. He has not read it through. Therefore I am a little nervous when you ask him about parts of the bill that I do not think he has seen at all.

Mr. ST. CLAIR. I will say this, in reply, Mr. Gompers: That there is not anything in this bill, as I remember it—and I ran over it the night before last—that imposes any penalty against the nonperformance of this contract that he is talking about.

Mr. VREELAND. Except the odium of public opinion?

Mr. ST. CLAIR. Of public opinion.

Mr. VREELAND. Which contract?

Mr. ST. CLAIR. I speak now of legal rights, and there is no jurisdiction in any court, anywhere, in my opinion as a lawyer, that would secure cause of action on this contract that was made as a condition precedent to the entry of the party into an arbitration.

Mr. VREELAND. You think, Mr. St. Clair, that the fact that the two parties to the controversy agree to submit a controversy and to abide by the result would not constitute such a contract between the two principal parties as would enable them to go into a court for breach of contract?

Mr. ST. CLAIR. No; I do not.

Mr. FURUSETH. Or into a court of equity?

Mr. ST. CLAIR. No; I do not think that in any court jurisdiction would accrue or that the right of action would accrue to anybody for the nonperformance of the contract which is made a condition precedent to the acquisition of jurisdiction. As a rule of law, as I understand it, any contract that is made a condition precedent to obtain jurisdiction in a court or any tribunal in this country, is not actionable for its nonperformance, unless the State itself creating the tribunal makes that a part of the condition.

Mr. DAVENPORT. I would like to ask Mr. Foster a question. Last week, when this matter was up for discussion, speaking about the bill, I said that I thought that it provided for compulsory investigation, and Mr. Whitney, who appeared here in support of it, quoted, among other things, the letter of Judge Gray, in which he says:

> We do believe, however, that the State and Federal Governments should provide the machinery for what may be called the compulsory investigation of controversies when they arise.

In the bill as it is drawn it provides that the tribunal may initiate these proceedings, and then in section 9——

Mr. FOSTER. Excuse me. You use a general term about initiating proceedings, and that is very specific in the bill. The initiation is simply an invitation to contestants to come in and arbitrate.

Mr. DAVENPORT. Now, in section 9 it says the testimony of any witness may be taken at the instance of a party in any proceeding or investigation pending before the tribunal by depositions at any time after a cause or proceeding is at issue on petition and answer. The next sentence proceeds as follows:

> The tribunal may also order testimony to be taken by deposition in any proceeding or investigation pending before it at any stage of such proceeding or investigation.

Is it not true that under this bill this tribunal would have a right to send out its commission and take depositions of the laboring people or the other people?

The first sentence provides for a condition that arises after proceedings are at issue. The further sentence is that the tribunal may also order testimony to be taken by deposition at any proceeding or investigation pending before it at any stage.

Mr. VREELAND. That is, after issue has been joined by the acceptance of both parties of the tribunal as arbitrators?

Mr. DAVENPORT. That is governed by the first sentence.

Mr. VREELAND. At any stage after that your commission has a right to take evidence and subpœna witnesses and compel attendance.

Mr. DAVENPORT. Not only that, the provision in regard to the initiation of the proceedings says (sec. 5):

> That whenever it shall appear to the tribunal that there exists in the United States a controversy concerning wages, etc., and in which controversy there is involved any commerce with foreign nations or among the several States or with the Indian tribes, or when such controversy arises within any of the Territories of the United States, * * * it shall be competent and lawful for the tribunal to request both of the said parties to such controversy to submit in writing their respective claims and demands to arbitration.

Now, then, follows the provision in regard to compulsory taking of testimony. The first sentence provides it—when it shall. Further on it is provided—

> The testimony of any witness may be taken at the instance of any party in any proceeding or investigation pending before the tribunal by deposition at any time after a cause or proceeding is at issue on petition and answer.

Then follows this sentence:

> The tribunal may also order testimony to be taken by deposition, in any proceeding or investigation pending before it, at any stage of such proceeding or investigation.

Is not the purpose of that to carry out the idea of Judge Gray, that compulsory investigation is the great desideratum?

Mr. FOSTER. No; absolutely not.

NO COMPULSORY INVESTIGATION IN BILL.

Mr. DAVENPORT. Then, ought not that sentence to come out?

Mr. FOSTER. It ought if it raises that question in your mind or in the mind of any other man interested.

Mr. DAVENPORT. What other object can there be to put that in when the sentence before that provides for the same thing when it has reached the stage of an issue? What is the significance of it—

The tribunal may also order testimony to be taken by deposition in any proceeding or investigation?

Mr. FOSTER. If that is a repetition of what was in before, it is a defect to be found in most dignified legal documents, that is all. But I would say if it raises that question in your mind it should be stricken out, and I would like to mark it for such change. And I would like to have an interview with you where we could mutually agree upon language that would make it unobjectionable.

Mr. VREELAND. I have to warn you that after you get that fixed, Mr. Davenport will still be unalterably opposed to the bill.

Mr. FOSTER. Oh! Well, I guess I am not so anxious to fix it, then. How much time have we? I do not wish to impose upon you, Mr. Chairman.

Mr. VREELAND. The House is now in session, but if you wish to go on for ten or fifteen minutes, we would be glad to hear you.

Mr. FOSTER. I think we arrive at things best by the questions that are raised here, excepting that last one. I guess we did not get anywhere on that.

Mr. FURUSETH. On page 7 of the bill, beginning at section 4, on page 6. (Reading:)

That if said other party, as named and described in the foregoing section, shall make a complete and full sworn answer to the petition therein provided and shall so submit in such manner and form said controversy to the arbitration of the tribunal and shall so agree to accept and abide by the decision of the tribunal as to the matters involved in the said petition and answer, then the tribunal shall without delay proceed in accordance with the provisions of this act and the rules thereunder which it shall hereafter adopt to investigate privately (unless both parties consent to public investigation) the matters and things involved in the said controversy, determine the merits of the same on the basis of right and equity——

Does not the whole line of this bring the equity court in?

Mr. FOSTER. I do not think so.

Mr. VREELAND. It does not say equity court.

Mr. FOSTER. I do not think any court has a patent on the word equity.

Mr. FURUSETH. I used to think that, but I have gotten out of it now.

Mr. FOSTER. I think you and I are permitted to use the word "equity" without referring to the equity court.

Mr. FURUSETH. I have gotten to be very much afraid of that word.

Mr. FOSTER. Equity?

Mr. FURUSETH. Yes; we don't know where it begins and where it ends.

Mr. FOSTER. It is a beautiful word.

Mr. FURUSETH. It has gone to the extent of taking away our rights; our rights away from us, and we are a little afraid of it.

Mr. FOSTER. It is a beautiful word.

Mr. FURUSETH. Now, suppose it does not proceed according to law and equity.

Mr. FOSTER. It does not say according to law.

Mr. FURUSETH. No—"right." Suppose it does not proceed according to right and equity. It says "on the basis of right and equity." Suppose it does not; suppose for some reason it does not, would not the whole matter then go into a court of equity?

COURTS DO NOT HAVE JURISDICTION UNDER THIS BILL.

Mr. FOSTER. No; it would be impossible. No court could get jurisdiction as following an action under this bill; it would be impossible. And, as said before, I would be most happy to join with anybody who has discovered any of these extraordinary and dangerous things to fix it, if the English language would do it, so that it would clearly be impossible.

Mr. GOMPERS. Does not public opinion largely determine the question of controversies now? I refer to controversies between employers and employees that are of quite large dimensions.

Mr. FOSTER. I think you are quite right that public opinion has a very great influence in the social world and in the business world. I think there are many of us who behave much better than we would do if we were not a little afraid of our neighbor's opinion.

Mr. GOMPERS. Would a tribunal appointed by the President of the United States, holding office for specific terms, hearing these controversies for which the bill provides, any more clearly define or sway public opinion than it is now defined or swayed by the ordinary process by which public opinion is formed?

PUBLIC OPINION UNDER BILL.

Mr. FOSTER. I think so—a thousandfold more. The one is an undisciplined, uncontrolled, unsystematized sort of a force, that is spontaneous and peculiar, and terrific sometimes, in its manifestations. The other is an attempt—an attempt which may fail—an attempt to utilize that as a power, as a force, to set up here by the aid of the Government a burning glass, the focus of which will be held right on the recalcitrant until he surrenders. One of our leading railroad men of the West said to me recently that he did not believe a railroad could stand thirty days in contempt of the proposed tribunal if this bill became a law.

DIFFICULT FOR PUBLIC OPINION TO GET FACTS.

Mr. VREELAND. Is it not frequently very difficult for public opinion to ascertain accurately the facts upon which to act?

Mr. FOSTER. Precisely.

Mr. VREELAND. For instance, in the coal strike in Pennsylvania, upon one side your hear that the miners had not sufficient pay to provide for their families, that they are merely existing; on the other side you hear it claimed that the miners are earning great sums of money every month and driving to the mines in carriages, and public opinion is greatly in doubt as to what are the facts.

Mr. FOSTER. That is right, and the most powerful part of the public hold in abeyance their judgment, because they have not the information of which you speak; they are in doubt as to the so-called facts.

This is in a way an experiment, you may say. Of course those that have espoused this work, especially myself, and have studied it two years with the idea of making as good a bill as possible, are thoroughly convinced that it is efficient, absolutely efficient, and that it is a way of harnessing that force to this work.

Mr. FURUSETH. Of guiding that force, guiding public opinion?

Mr. FOSTER. Well, directing it through this tribunal.

Mr. FURUSETH. Of helping to construct it?

Mr. FOSTER. Well, making it—no; informing it. If I get your meaning—that there would be a tribunal of men that would manufacture false public opinion, is that it?

Mr. FURUSETH. If the tribunal can manufacture true public opinion, if here is a force like all other forces, it may act both ways, may it not, and so, in as much as it can disseminate true public opinion, so it can disseminate false public opinion; that is, inasmuch as it can influence public opinion for good, so it can influence it for bad.

WOULD NOT MANUFACTURE FALSE PUBLIC OPINION.

Mr. FOSTER. I do not think it is possible that an organization or a tribunal appointed by our President could become an instrument for the manufacture of false public opinion. You can not presume these things. We must leave it with men; we must be governed by men. Our hope lies in the honesty and devotedness and patriotism of men. I am an optomist. I believe that here in this magnificent country of ours we are growing as much in moral as we are in material things; and that the men, the group of men, that stand at the head of a tribunal or commission like this, with the whole American people looking at them, are going to disseminate error?

Excepting unavoidable human error, I say, is impossible.

Mr. FURUSETH. Is not our entire Government a form of government peculiar to the facts based upon the proposition that individuals, no matter what station they occupy, are subject to be swayed and to grave errors?

Mr. FOSTER. No one is perfect.

Mr. FURUSETH. And would not your argument lead to absolutism?

Mr. FOSTER. No.

Mr. FURUSETH. Why not?

Mr. FOSTER. Because every to-morrow would modify yesterday where there is free thought.

Mr. GOMPERS. You said a gentleman expressed to you the opinion that no railroad in the country could hold out thirty days against the expressed public opinion.

Mr. FOSTER. The verdict of this tribunal.

Mr. GOMPERS. Rendered by a tribunal of this character as provided in your bill?

Mr. FOSTER. Yes.

Mr. GOMPERS. I presume you know that very frequently the maintenance of an entity among workmen is determined either affirmatively or negatively within thirty days, and the chances are that when the conscience of the railroad company becomes quickened the directing force that holds for the other side of the contention may have become disintegrated, and all that will be left will be the conscience-stricken railroad.

Mr. FOSTER. Well, I discover a sad sort of prophecy in that statement, but I do not believe anything like that could happen.

Mr. GOMPERS. This is particularly so of people who have become unorganized for a long period and then in sheer desperation may want to make a demand for some redress, and failing to get it within some reasonably short time they may disintegrate—lose hope.

Mr. FOSTER. Well, I think there is every reason for hope on the part of workingmen as well as on the part of employers.

Mr. GOMPERS. I agree with you.

MOVING TOWARD A BETTER DAY.

Mr. FOSTER. I believe every moment we are moving toward a better day. I believed there is a prosperity now all over the country, that we can almost hear it and see it and smell it, that it is hindered only by these dissensions. I believe that it is coming, and we want to clear the decks if we can. We want some place where we can send these people that are quarreling and quickly, and then go on with the work and utilize the opportunities that are coming to us. They won't come forever.

MR. GOMPERS SAYS LABOR DISPUTES HAVE NOT IMPEDED DEVELOPMENT.

Mr. GOMPERS. Have we been seriously impeded with the development of our manufactures and the acquirement of foreign trade by labor disputes?

Mr. FOSTER. I would rather take your statement upon that than mine. Do you say it is not so?

Mr. GOMPERS. I assert that it is not so.

Mr. FOSTER. You should know.

Mr. GOMPERS. I do not want to take up Mr. Foster's time——

Mr. VREELAND. Still, Mr. Foster invites questions as the best way of expressing his ideas.

EVERY MAN REGRETS STRIFE.

Mr. GOMPERS. While every man regrets strife, employers I think as well as workmen, that arises between them, and while organized labor and employers who are organized and deal with organized labor agree that a greater degree of peace and industrial tranquillity is maintained by these agreements and contracts between them, yet strife exists here and there. The question is whether these strikes or lockouts that occur occasionally, whether they are really hindrances and obstacles to the development of the industries of the country and the commerce of the country. We agree, of course, that for the time being it is a great inconvenience; we are all inconvenienced by them. The question is that in the time of a few weeks or a few months, in the year or in the decade, whether we are really hindered.

The history of industry does not bear out the fact that we are.

Mr. FOSTER. The question as you put it involves a philosophy that takes in a cycle of at least ten years. What was the result of a strike or a lockout or a dissension is, of course, a matter for the student to conclude, if he can, from evidence extending over ten years in time. But to look at the conditions we have in our western country where

the wheels have stopped and they have ceased to earn the wage and the product is not coming out of the mill, it would appear to be a great disaster; but if you say, like other evils, it works out for good, it is a far-fetched conclusion.

Mr. GOMPERS. For instance, the Department of Commerce and Labor within the past week or so published a bulletin in which it gave the exports of the United States to all countries for the past ten years included, and it shows there (I had the honor of presenting that statement to this committee in a hearing upon another bill) that the increase in the exports of the United States for the past ten years have been more than 150 per cent. So much for that. I think the most expensive strike we have had has been the strike in the anthracite coal region of 1902–3. Most all of the people of the country were more or less inconvenienced by that strike. The fact is that as a result of that strike the material condition of the men and women and children in the coal regions has improved more than words can convey in a few moments. The production of coal in the anthracite region has increased vastly, exceeding that of any previous production of coal in that region, and is still going on. The question is whether, after all, that great strike, seeking to avert it as we did, was not a great natural blessing.

Mr. FOSTER. It may be so, in some inscrutable way. But I would take no man's word for that prophecy.

I will say to you, Mr. Chairman, that you may have been expectant, your committee, and a little disappointed, to discover that there has been no partisan lobby come before you in behalf of this bill. I know many of the manufacturers of the country, and if I had thought that it was best to have their support to this bill I would have approached them to argue before you its advantages to them. I know some of the labor leaders of the country, and through them I certainly should have gotten an introduction to Mr. Gompers, and would have labored with him to try to get his support to the bill as the representative of that magnificent organization of which he is president; but I did not do it. The bill has been offered to you as an adjustment of words to define a meaning, to accomplish a purpose; and the bill, if it succeeds, will do so by its own inherent logic, by the logic of the bill, by the cures for these evils that appeared in the bill; not as the bill now stands, perhaps, but the bill as it will be when every earnest, patriotic soul takes hold of it here and helps to change the language where it is obscure, so it will accomplish the intended purpose of those who formulated it.

INHERENT PURPOSE TO STOP STRIKES AND LOCKOUTS.

Mr. FURUSETH. On that subject, what is the fundamental, inherent purpose if it is not to prevent and stop strikes?

Mr. GOMPERS. And lockouts?

Mr. FOSTER. And lockouts. Why do you leave that out?

Mr. FURUSETH. That was purely accidental. Stop strikes and lockouts.

Mr. FOSTER. Do you discover in this bill anywhere a bias toward the manufacturer or toward the laborer; can you discover it?

Mr. FURUSETH. I would rather answer that question later.

Mr. VREELAND. That is the purpose of the bill, I suppose, Mr. Foster—to prevent strikes and lockouts?

Mr. FOSTER. Yes, sir.

Mr. FURUSETH. That is the final purpose of the bill. Now, let me ask this question: Has any improvement in the condition of the working people come anywhere in the world except through a scarcity of labor, or a scarcity of labor artificially induced through a strike or the fear of a strike?

Mr. FOSTER. I think that you are going into the academic side of this question, and I have two reasons for preferring not to do so. The one is the time it would take of the committee and the other is my ignorance on the subject. In regard to what labor has acquired and may acquire, it seems to me there never was better opportunity than now exists. I am very glad from the bottom of my heart that they have sponsors to speak for them now; that when they deal with a great proposition on great fundamental principles they have men like Mr. Gompers, that do not beg the question, but are willing to stand up and discuss with the representatives of employers any great vital question that can come before the peeple. That is a long way toward solution.

But I believe that this is another step, just one step farther, to select from our fellow-men these representatives that speak with authority and with wisdom, with logic, in regard to these vital matters, and we need go no higher than to select from the best men of our country—as any President would do—these men who would stand in these places of duty and honestly endeavor to solve these controversies between man and man. I think our country is peculiar in this, that currents of thought are not hindered here by artificial barriers, and, for the most part, a first class, good man riding in a coach and a good, honest, conscientious coachman are thinking about the same way on nearly every subject. We have no lords, no earls, no dukes, no counts with garden walls or intellectual walls that run to the sky—walls they do not see, but which hinder the mixing of thought in those countries, and therefore genuine public sentiment will never be possible under such circumstances. But with us here, where unhindered thought flows where it will, and where we are, generally speaking, thinking in the same way on most public questions, we will come to the crystallization of what is right and what is wrong by the measure of public sentiment that, acting through a tribunal of this character, will be received almost as from Mount Sinai, and quite as well as from a supreme court where they give us, sometimes, decisions that are decided by four on one side and five or six on the other.

Mr. GOMPERS. We are in accord with you, not with your compliments——

Mr. FOSTER. It was sincere.

Mr. GOMPERS. But apart from that, we are in entire accord as to your statement of reverse conditions that obtain in monarchial countries and our free countries. Well, if we have progressed so splendidly under our present methods, why take such a chance that may crystallize into a fact what so many feared upon the part of employers and upon the part of labor also; why depart from a road that has given us the wonderful conditions that you have so splendidly described just now? Where is the necessity for it?

Mr. FOSTER. As our civilization becomes more complex, as more things are happening as they are happening in greater rapidity, we shall need a better and more systematized method of dealing with

them. We will have to have a lot of new ways of doing things when we get 300 people to the square mile, for instance, living here.

Mr. VREELAND. Let me suggest an answer to that, if it is an answer. This country has progressed splendidly and built up magnificently in spite of the fact that we have a fire loss of from $100,000,000 to $200,000,000 a year, a waste, a drain upon our resources of that amount. We have progressed as we have in spite of that. Is that any reason why we should not attempt to do away as far as possible with the fire waste, and eliminate it, so that we can progress faster?

Mr. GOMPERS. If I may be permitted, Mr. Chairman, I would say that the destruction by fire is entirely wasteful, and the effort to prevent that is not only proper but wise and practicable. The withholding of labor or the stoppage by the one or the other side for a period and to attain a specified purpose can hardly be likened to the wastefulness and destructiveness of fire.

Mr. VREELAND. But the loss of 1,000 men in a day's work for a month—if it can be prevented—does away with that which is an absolute waste.

Mr. GOMPERS. If employers conducted business every day in the year except Sundays and holidays, if workmen could toil every day in the year other than holidays and and Sundays, that argument might hold good. But, as a matter of fact, there is scarcely an industry in the whole country that is continued in operation all the working days in the year. And, as a matter of fact, the strikes or the lockouts are the determination that the cessation of industry shall occur at a time more convenient or more advantageous to either the one side or the other than it is to the other side. *It is not a loss—an industrial, a social loss.*

Mr. VREELAND. You think, then, the strike may be in the nature of a necessary holiday, which is beneficial to the men and the employers also, perhaps?

Mr. GOMPERS. I do not want to appear, and I do not think it is the chairman's intention to make me appear, as an advocate of strikes, except that I appear as an advocate of the right to strike. The theory of strikes, the philosophy of strikes, is a very deep question, and while I make no pretense of knowing the entire subject I have some notions upon the subject which, if it would be convenient or desired by the chairman or the committee, I should be glad to present at some time. But I want to say here, for fear of being misunderstood, that I make the claim that there is not a force, that there is not a factor, in the whole economic, social, or political life that makes so effectually for a diminution of the number of strikes or the intensity with which strikes are contested as the organizations of labor. But strikes are not fully understood. The purpose of strikes is not fully understood. The results of strikes are not fully understood. I have some notions upon that question, of the social advantages, which I should like to present some time, if convenient.

Mr. DAVENPORT. Would Mr. Gompers permit this inquiry? Whether he thinks it would be wise, it being the inherent right of men to strike, a number of men, whether it would be wise to direct the whole power of society in the way of compulsion to prevent them from striking if they thought it was to their interest to strike?

Mr. GOMPERS. I think that that should not be done.

Mr. DAVENPORT. And generally, recognizing the same right of the

employer, that if the judgment of the employer was that he ought not to run his business as the community demands, that the whole power of the community, the moral compulsion which is contemplated by this bill, ought not to be brought to bear upon him, but that the principles of liberty, which have been coupled with the enormous increase in production and the control over the powers of nature and the improvement in labor-saving machinery, which have contributed to the improvement of the world and the workingmen, should be allowed free play?

Mr. GOMPERS. Absolutely, modified by the power on the part of the workingmen organized on their side and modified by the power of employers associated—for I believe that as a result will come agreement between the employers and the employed. Out of it will come the continued production of wealth to its fullest possible limits; out of it will come the best relations that are possible between the employer and the employee, of which all the people will reap the advantages, and not, as some scribblers have tried to make it appear, that the agreements between the employers and organizations of labor will contribute toward the mulcting of the public. I do not pretend to say that here and there that has not been the case; but the great outcome of it all has certainly resulted in a social advantage to the people and in an economical advantage.

Mr. FURUSETH. I would like to ask a question of Mr. Foster.

Mr. DAVENPORT. One word. Following out the illustration of the chairman that loss resulting from fire would be no reason for the elimination of fire from our world, so——

Mr. VREELAND. You are not proposing to eliminate labor?

Mr. DAVENPORT. Not at all. So the elimination of liberty by any means, legal compulsion or moral compulsion, is a much greater evil than the consequent evils that flow from the exercise of the liberty.

Mr. GOMPERS. Undoubtedly.

Mr. FURUSETH. I would like to ask Mr. Foster a question.

Mr. GOMPERS. Just a moment. The whole history of legislation in the past or the proclamations by Government in dealing with the matters of wages or the relations between employers and employees have been, too, an infringement on liberty, and the organizations of labor have made for a larger degree of liberty for the workingmen, expressed by numerous things that I might mention, but which it is not necessary to mention now.

Mr. DAVENPORT. About which we would perhaps disagree——

Mr. GOMPERS. Well, I would find myself in rather strange company with Mr. Davenport agreeing to any proposition.

MR. GOMPERS SAYS WORKINGMEN ASK FULL OPPORTUNITY OF RIGHT TO STRIKE.

But the fact is that the workingmen ask to have the full opportunity of the right to strike. The employers will look out for their proclaiming their right to lock out. We believe, for labor, that any attempt to limit that right would make an evil.

Mr. VREELAND. Is there anything in this bill that limits or takes away from the men the right to strike?

Mr. GOMPERS. We believe it does; and what is worse still——

Mr. VREELAND. How so?

MR. GOMPERS SAYS THE BILL IS INITIATIVE TOWARD COMPULSORY ARBITRATION.

Mr. GOMPERS. And what is worse, we believe that this is simply the beginning of a proposition leading to what would be compulsory arbitration. It is the beginning; that is the point. It is the initiative——

Mr. VREELAND. Do you find anything in this bill taking away the right to strike?

Mr. GOMPERS. I can not say that it does in direct terms; but this is not the first time I have had the pleasure of addressing myself to the features of this bill. About four months ago Mr. Foster appeared before a meeting of the National Civic Federation in New York, of which I am vice-president, and our late friend, Senator Hanna, was the president. And at that meeting Mr. Foster explained the features of his bill and a number of questions were addressed to him, which he acknowledged were criticisms that were just, and he said that he would undertake to modify them. It was there——

Mr. FOSTER. Excuse me, but are not they modified?

Mr. GOMPERS. Some of them, yes; some of them are not. The Hon. Charles Francis Adams, about a year or so ago, read a paper before one of the meetings of the National Civic Federation favoring a somewhat similar measure—and it was expressed in the bill, I think, that has been introduced in one of the Houses of Congress—and in a discussion of it with him I took the occasion to express the same fears that I expressed just now in regard to this bill, that it would be the stepping-stone to compulsory arbitration, and Mr. Adams said that if he thought that that would be the fact he would not urge its passage, and here we are, Mr. Chairman.

If this bill became a law, or if Mr. Adams's bill became a law, and after it had been in operation for a year or two, and finding that there were no practical results—practical from the view of those who hope to prevent the strike and lockout—as the result of such laws, it is only then another step in the direction of compulsory arbitration.

Mr. VREELAND. You say it is another step. What steps have been taken toward compulsory arbitration?

Mr. GOMPERS. There have been several efforts made by bills to sway Congress to adopt compulsory arbitration laws, and it is only through the growing interests of employers, as well as the initiative interests that organized labor has in it in exposing the fallacies of such a proposition, that both sides are agreed—without getting together for that purpose, but both sides are agreed—that the compulsory features of any law would be most injurious to both employers and to workmen and to the public generally. It is the fear we have for the present as well as the future.

The CHAIRMAN. Have you made any endeavor in the way of finding any less wasteful method for settling strikes and lockouts and labor disputes?

Mr. GOMPERS. Yes; the organization of workmen, the association of employers; and, as a friend of mine described it, sitting around a round table and discussing with each other the interests of industry, the interests of employers, and the interests of employees, and the interests of the public. For instance, within the past few months there have been conferences held between representatives of the miners' organization on one side and the representatives of the operators in the bituminous

regions, where the questions of wages and other conditions were discussed by these representatives from both sides. The employers wanted a reduction of wages of 10 per cent. The representatives of the organized miners contested it. At last, after repeated conferences, they agreed (the representatives of the operatives) to modify their demand to a 5 per cent reduction, and the representatives of the miners agreed to recommend it to the miners—the acceptance of that reduction. From and including 1877, as the result of the strike in the bituminous regions, these conferences have been held annually.

Mr. VREELAND. Suppose they had not reached an agreement after setting around the round table; is there any better way to be found then than to fight it out?

Mr. GOMPERS. This bill before this committee would not affect the results. The representatives of the miners have gone as far as they could, and in having this agreement ratified by the miners they have gone so far as to say that they themselves will either stand or fall by the approval or rejection of that proposition. There is no set of men in the whole country that have the confidence to the same extent in guiding the affairs and indicating the interests of the miners as have the representatives of the miners' organizations, and no award, either with binding effect or an award expressive of opinion, would have one scintilla of influence compared with the overwhelming influence of such a recommendation that the miners' recommendation would have. That is a fact.

I want to repeat and emphasize that the organizations of labor and the associations of employers bring strikes down to a minimum. *I do not think it is possible for any species of legislation to eliminate strikes or lockouts.* These things will be reduced in number and intensity and in bitterness with the organization of workmen and their permanency, the judgment and good sense with which their affairs may be administered. On the other side, the growing respect of the employers for associated labor and the fact that when an agreement is made between the employers and the organizations of labor that the terms of this agreement are lived up to.

Mr. FOSTER. I want to say, Mr. Chairman——

Mr. FURUSETH. I would like to ask Mr. Foster one question or two.

Mr. VREELAND. Make them brief.

Mr. FURUSETH. The hope that you have in this bill is that public opinion will, though investigations and report of this commission, be so concentrated, and from its concentration be so powerful that it will stop strikes and lockouts?

Mr. FOSTER. Well, I would say, rather, that it would settle a strike or a lockout.

Mr. FURUSETH. Or prevent it?

Mr. FOSTER. As time went on I think it would. I think as knowledge came to the people of the efficiency of such a tribunal that it would be appealed to before the strike or the lockout was inaugurated, and I would like, if I may, in conclusion, to take issue with the statement of Mr. Gompers—especially one part of it; when he speaks of facts I may not take issue with him, but when he speaks prophetically I may—in regard to the confidence of your mining people in their representatives, which at this time, of course, must be very great. But I conceive, sir, that the confidence of the people in this tribunal will so far surpass that which they have or have had in the representatives

of their organizations as not to be comparable. I tell you, sir, that I believe that there is hardly any other place in the United States of the high character of these places—members of this tribunal. They would be men in regard to whose decisions and in regard to whose judgments there could be no question. Those men will compel, by virtue of the dignity of the great nation that appoints them, and by virtue of their character—character that would invite such appointments—the confidence and respect of our whole people.

Mr. FURUSETH. They would compel confidence in that way, that is your position?

Mr. FOSTER. Much obedience is compelled that way.

Mr. FURUSETH. I am simply trying to get at your position.

Mr. FOSTER. I want to say in conclusion—for it is about time to conclude—that I had the extreme pleasure and a great deal of pain at Hot Springs, Ark., where I was ill, and while there made the acquaintance of the Rev. John Lancaster Spalding, who was on the strike commission, and I came to know him and we discussed these things, as I had a copy of this bill. He knew of it before. I came to know him not alone in connection with this bill, but to know that wonderful man, and I have something as a compensation for a long and severe attack of gout and I am glad I had it because I got acquainted with him.

Now, he having read this bill and being as much interested in all that concerns the prosperity of this country as any man that lives in this country, and having, for the most part, espoused the ideas of the bill, perhaps not all in detail, he is willing to come here to appear before this committee and before the Senate committee that he may speak for the bill, or for those parts which he has thoroughly read and digested and approved.

Mr. VREELAND. Would it be convenient to have him here next Wednesday?

Mr. FOSTER. He said he would be glad to come on the 6th or the 14th, and I would like to give him the exact date, because his engagements are such as it is only fair not to take up his time unnecessarily.

Mr. VREELAND. We would be glad to hear him next Wednesday, the 6th. Do you know whether Judge Gray desires to speak before the committee?

Mr. FOSTER. I do not know.

Mr. VREELAND. I understood from somebody that he wished to appear.

Mr. FOSTER. I have no knowledge about that. I want to express my appreciation and thanks for the courteous hearing you have given me, Mr. Chairman and gentlemen. I am heartily in earnest about this bill. I only wish that Mr. Gompers was willing to sit down and fix it with me where it needs fixing—and it does not need very much—and then stand up for it. And the same way with Mr. McDermott. I offer some letters in support of this bill.

President G. J. Kollen, of Hope College, Holland, Mich., says:

I consider the bill to create a national arbitration tribunal not only one greatly needed, but a very wise one. Certainly all that can be done should be done as soon as possible to bring about a better feeling between labor and capital.

I consider the bill so wise because it is so well calculated to form public opinion favoring peace and harmony between the factors that constitute the foundation of all commerce and industry. The strength of the bill lies in the fact that it will lead our people rather than drive them. I hold up both hands in favor of the bill.

Robert L. Kelly, of Earlham College, says:

Please allow me to express the hope that H. R. 9491 under consideration will be enacted into law. Arbitration is the nineteenth century method of settling difficulties, domestic, national, and international, and it is to be hoped that the representatives of our sane and patriotic people will devise means by which labor difficulties may be settled without loss of blood, time, and property. The bill under consideration has my hearty support.

Charles E. Lewis, acting president and instructor in economics, Pacific College, says:

Your kind communication of the 19th at hand, also a copy of bill H. R. 9491, for which favors please to accept my thanks. I am most hearty in my approval of the bill, since I think it is probably as strong a one as would be possible to enact at present. However, I think I would prefer that it make arbitration compulsory.

Charles W. Needham, president of the Columbian University, Washington, D. C., says:

There is much in the bill that is worthy of consideration. I am not entirely sure that a board of this kind can be organized so as to meet all of the controversies concerning wages, hours of labor, etc., but I am heartily in favor of arbitrating these questions as far as possible, and any legislation that will tend to this result will certainly be of advantage both to capital and labor.

E. B. Wakefield, acting president of Hiram College, says:

I am very willing to be quoted as in favor of such legislation as this. To the end of time I am of the opinion that the principle of arbitration will need to be kept in practice. We generally agree that labor has a right to combine in trade's unions, and I do not see while such combinations exist how lawlessness and violence can be prevented except by appealing to arbitration. Every movement that advances the habit of arbitration to my mind is of deep interest to society.

G. Loeoinger, of University of Minnesota, says:

I have had occasion to study this question of arbitration somewhat in detail, and I have become convinced that if Congress is to do anything practial and useful it must pass something besides voluntary arbitration acts.

My own theory is that Congress ought to pass a compulsory arbitration law affecting common carriers and such industries as by magnitude, monoply, or inherent character are fraught with vital interests to the public and in which a strike or a lockout is a material inconvenience or annoyance to the public.

In these disturbances the Government has a right and a duty to interfere under the police power. If, therefore, we settle big disputes peaceably it will be a comparatively easy matter to convince local labor and capital that arbitration is wiser and more expedient than strikes and lockouts.

I therefore favor compulsory arbitration applied to public or quasi-public industries.

First. Because it is necessary for the protection of the public.

Second. Because it is constitutional under the police power of the State.

Third. Because it is practicable; based on existing statutes as to enforcement of voluntary arbitration as the Congressional act of 1898; based on the United States merchant marine statutes; based upon the power of injunction.

You will see, therefore, that I think your bill will be ineffectual, as the act of 1898 has been, and that something more drastic is necessary.

I thank you for the favor shown.

M. J. Flaherty, corresponding secretary Brooklyn Central Labor Union, says:

Your communication relative to H. R. 9491, to create a national arbitration tribunal, received and placed same before the Brooklyn Central Labor Union at the meeting March 20. I am directed to say that the Central Labor Union is opposed to any form of compulsory arbitration, but realizing that bill 9491 is not a measure of that character, we have given it careful consideration. We find that the bill provides that the President shall appoint six members of an arbitration tribunal, and while the President no doubt would be guided by the most honest and honorable motives in the appointment of the members of the commission, yet, our experience has taught us that such commissions are largely made up of people who do not understand the

working people, and in some cases of men not at all in sympathy with labor. We are therefore opposed to the bill in its present form, and would suggest as a guaranty to the working people an amendment to the bill, to the effect that three members of the commission, or one-half, be taken from ten names submitted to the President by the American Federation of Labor. If such amendment is attached to the bill the objection of this Central Labor Union will be removed. But in its present form we are opposed to the bill, and I am directed to so inform your committee or the committee in charge of measure.

H. W. Coursey says:

I may say that I read the bill over rather hurriedly and discover many things that are commendable. I also find portions which are objectionable. Many generalities and repetitions might be stricken out, which would destroy much of the ambiguity of the measure. But if this bill is intended as a substitute for the eight-hour bill and the anti-injunction bill I am opposed to its passage. First enact these two bills, and then a board or commission for their enforcement would be timely and proper. That the constitutional rights of the common people have been abridged on numerous occasions by the national judiciary will, I think, not be denied.

A Federal judge with a passionate mind tinged, perhaps, with a slight degree of prejudice may do an immense amount of injury and injustice to a class which may deserve better consideration.

I apprehend that many of our representatives have a gross misconception of the aims and purposes of organized labor. I may say that to beget strife and inharmonious conditions among the classes is altogether foreign to the purposes of organized labor. We desire, so far as I may speak for the organization, to promote peaceable, pleasant, and harmonious relations among all classes and only ask for fairness and justice.

Edwin A. Delchamps, secretary O. P. U., No. 10417, of Mobile County, Ala., A. F. of L., says:

A bill to create national arbitration tribunal: Beg leave to say that after a careful perusal of same I am of the opinion that the bill is a good one, and I am heartily in accord with the measure and have hopes of its success.

Frank P. Vaughan, president A. F. of L. Alabama Oystermen's Protective Union, Dauphin Island, Ala., says:

After a careful reading and consideration, you may quote me as saying:

I believe the tribunal would, if its members were honest, just, kind, and faithful to duty, be very useful and in time become indispensable to our citizens (those who love the flag more than the dollar).

I believe the bill should be amended so that the president would receive considerably more salary for his share of the work, as the bill places more labor and care upon him, and empty honor is undesired by brainy men in this year of our Lord 1904.

A proviso should also be added to have an actual toiler or two in the tribunal. Educated toilers in nearly all lines of employment are not hard to find, and "$8,000 per annum" would neither frighten nor prevent their just decisions.

J. W. Green, president, and T. M. Freeman, secretary, Rolling Mill Helpers and Labors Union No. 10145, say:

Hope that the bill will pass, and also the A. F. of L. eight-hour bill (H. R. 4064).

Ed. Lee, secretary, Federal Labor Union 10030, Jonesboro, Ill., says:

It occurs to us that the bill is weak in the matter of not being able under its provisions to compel an amicable and just settlement of all differences. It seems to us this bill, if passed, ought to be reinforced by a law compelling both parties to any differences, lockouts, strikes, or any other matters of disagreement wherein the public is liable to suffer loss, damage, or any considerable inconvenience by reason of such differences, to place the matter in the hands of this tribunal for arbitration and adjustment. Otherwise it seems to us this bill—9491—in the amount of good it would be able to accomplish, would not justify the expense attached to such a tribunal. However, we will interpose no objection to the passage of this bill.

Nellie O'Rourke, secretary Dubuque Trades and Labor Congress, says:

While organized labor is ready to listen to arbitration at all times, when it gives them even a shadow of justice, and appreciates the efforts of those who try to represent them in a proper manner, they feel that they are more often misrepresented, and the favor is given to the man with the money.

The communication brought forth many different ideas on the object of the bill (H. R. 9491). After a great deal of discussion pro and con it was referred to the legislative committee who made the following report: That the secretary answer the communication and suggest that the power of appointing such a committee be vested in a member of a labor organization to appoint one, and the President, or representative of capital, to appoint one, and those two to select a third member to serve with them as a committee of three, instead of six.

They feel that justice to the wage-earner would be better accomplished than vesting the power to appoint such a committee in the President of the United States, who they believe by his position and surroundings, has little feeling or sympathy for the man or woman who has to work from ten to fourteen hours a day for the privilege of living on the earth. These are strong words, but it expresses the condition of the wageworker of the United States.

M. O. Taylor, secretary of the Lake County Trades and Labor Council:

This bill was considered at our last meeting and it was unanimously decided to advise you that we are heartily in favor of such a bill at such time as the laboring people are represented equally with the capitalists in the House and Senate and on the bench of the Supreme Court, etc.

We would very much like to hear from you further, and if there is any other question in regard to the bill that you wish to ask we will give you our views on the matter.

We believe that if labor was represented as I have outlined above that it would be a very good bill, but I personally believe, and I interpret the feeling at the meeting to bear me out, that under those conditions it would be O. K., but that each side should be compelled to submit the matter to arbitration. I have noticed that labor is generally ready to submit their case, but the other side says: "We have nothing to arbitrate," and I will cite you the case of Washburn-Crosby Milling Company, at Minneapolis, who at the present time make this declaration.

Then, again, we remember the anthracite strike, when they said the same thing, but were forced to submit the case, and the union, I believe, was at all times ready to arbitrate. We have no objection to your quoting us if you wish.

Carl M. Taylor, secretary Honolulu Trades and Labor Council:

Your communication was presented at the last meeting of the council, receiving their hearty approval and indorsement of the proposed legislation tending to create a national arbitration tribunal of six members for the adjustment of all controversies that may arise in the United States from time to time.

This tribunal, as proposed by the honorable Mr. Foss, should be the wedge in the solution of the labor problem between capital and labor. Either party having any grievance to present is assured that they will receive recognition from the party with which they are involved. Failing to reply to the tribunal, they must suffer the public sentiment upon the matter if avoiding arbitration when given the opportunity to present their side of the question in dispute.

I trust that the bill will be the ultimate means of bridging the gap between capital and labor.

George W. Stiles, secretary-treasurer advisory board of the Ottawa Trades and Labor Assembly:

I am instructed by the Ottawa Trades and Labor Assembly to reply to same in name of organized labor of this city, and I assure your committee that I do in the name of my coworkers most heartily indorse this bill, as the creation of such a tribunal would have a most salutary effect upon the ever-recurring friction between labor and capital, which is to-day one of the most vital questions before the American people, not only in questions of controversy coming within the scope of such tribunal, but also its indirect influence upon controversies of a lesser magnitude, as the moral effect of the publicity of a case before such a tribunal would be the creating of the desire with both labor and capital to settle their differences as between themselves through boards of conciliation rather than through strife or even arbitration.

The wording of section 6 is, to my mind, not quite clear as to what should be the procedure in the case where one party in the controversy shall have submitted their petition or answer and the second party shall not have agreed to submit and there shall have been a strike or lockout in progress, and the one party who shall have submitted their petition or answer shall have offered to resume their former relations with the second party and the second party shall have refused to resume former relations what shall be the procedure of the tribunal. Lines 2, 3, 4, 5, 6, 7, and 8 of page 12 of printed copy of bill may have been meant to apply to such a condition of affairs, but it does not seem quite clear.

Gabriel Joseph, secretary Central Labor Union of Philadelphia and vicinity:

1. In the judgment of the Central Labor Union of Philadelphia, the bill in its present form would not be acceptable to organized labor, and for that reason can not receive our indorsement.
2. We believe a bill somewhat on the lines of H. R. 9491, but which for an investigation by a commission on its own volition, without the consent of either party, or on the petition of one of the parties to a controversy, would be of inestimable benefit alike to organized labor and to the legitimate business industries of the country.
3. Any measure of this character should provide for the fullest publicity of the result of such investigations without regard to the wishes of any party to a controversy.
4. If the committee in charge of the bill so desire, the Central Labor Union of Philadelphia and vicinity will submit for the consideration of the committee a draft of a bill which in our judgment would be acceptable and wise.

W. H. Conner, secretary Central Trades and Labor Assembly, Taylorville, Ill.:

I will say that after talking with various members of the Central Trades and Labor Assembly, and others not of that body, I find it is the concensus of opinion that the bill is most satisfactory and should become a law, but with a few changes, viz: The opinion is very generally expressed that the Commissioner of Commerce and Labor should not be a member of the commission on account of his being a member of the President's political household, and would wield too much influence if he chose to so do, notwithstanding the fact he has no vote. The opinion was also expressed that the commission be composed of five instead of six, and this to leave out the Commissioner. Another idea was that the commission should have power to enforce its finding.

Philip Saunders, secretary United Trades and Labor Council, Streator, Ill.:

I have taken some pains to have the same read, and I think that it will meet with the approval of most of those interested in this section. It has now been referred to the legislative committee of the Trades Council, and I hope to receive their report in a short time and forward the same to you at once. We usually give matters of this importance prompt attention, but those who are the best qualified to pass upon their merits, and other causes, have caused a delay in this instance.

Frank J. Symmes, president Central Trust Company, San Francisco, Cal.:

The bill is excellent. Simple as possible. Can not well improve upon it.

Dr. E. Fletcher Ingalls, Chicago:

Nothing to criticise. It would be a source of considerable expense to the Government, but if it would prevent labor disputes, of which we have had so many in the past, the outlay would be cheap.

David E. Forgan, vice-president First National Bank, Chicago:

It seems to me that it is well conceived, practical, and possible of accomplishment.

M. J. Jack, president Streator Bottle and Glass Company, Streator, Ill.:

Something along the lines of this bill is an absolute necessity, and inasmuch as your bill, should it become a law, does not interefere with the constitutions of the different states, the same, in fact, being optional with the interested parties, I can see

no good reason why it might not turn out to be a great factor in settling disputes. It certainly could have no bad effect in any way, shape, or manner.

Edmund J. James, president Northwestern University, Evanston, Ill.:

No one can tell, of course, in advance of actual experiment how a social or legal device will work, but I must confess I would like to see this particular scheme tried.

E. S. Lacey, president the Bankers' National Bank, Chicago:

I am unable to offer any changes which will improve it.

Rev. Arthur B. Little, Chicago:

The bill has my hearty approval.

Benjamin J. Rosenthal, Chicago:

I think the bill excellent in every way. I believe there should be some penalty for breaking the contract.

William Deering, International Harvester Company, Chicago:

I see little to criticise. I especially approve section 6, prohibiting the engaging in strikes during the pendency of arbitration.

F. E. Coyne, postmaster, Chicago, Ill.:

The bill has my unqualified indorsement.

Congressman George Edmund Foss, Illinois:

I find bill favorably reported in 1894 providing for voluntary arbitration. It was strongly recommended by President Cleveland, but have not discovered any proposition which has as much merit as this, that of establishing a national board of arbitration which shall be voluntary and at the same time compulsory in effect by the force of public opinion and whose only penalty shall be publicity. The value of the law will depend upon the character of the tribunal. I believe that a tribunal such as this should be placed upon such a high standard as to be out of the reach of political influence, away from the temptations of commercialism, as to inspire at the very outset the faith and confidence of all our people, the lowest as well as the highest. I would hedge about it all the dignity and simplicty of the Supreme Court of the United States. To give it such a character and to make its "judgments true and righteous altogether" you must have men, and you can not get men unless you offer inducements that will appeal to them. In the first place, $10,000 per year is none too much. In the second place, they ought to have life tenure. The tribunal should not be an adjunct of any Department of the Government. It is wise to leave the method of procedure of the tribunal entirely to itself.

George W. Geary, Illinois Free Employment Office, Chicago:

Wants an amendment so that the Secretary of the Department of Commerce can not vote. Bill should have provision making tribunal nonpartisan politically.

Thereupon, at 1.10 p. m., the committee adjourned until Wednesday, April 6, 1904, at 10.30 o'clock a. m.

WASHINGTON, D. C., *Wednesday, April 6, 1904.*

The subcommittee met at 10.30 o'clock a. m., Hon. Edward B. Vreeland in the chair.

Mr. VREELAND. Mr. Foster, do you desire to be heard?

Mr. VOLNEY W. FOSTER, of Chicago. I have a few concluding words, which can be made, however, just as well after Bishop Spalding has made his statement.

Mr. SPALDING. I would prefer that you go ahead.

Mr. VREELAND. You may arrange it as you desire.

STATEMENT OF MR. VOLNEY W. FOSTER, OF CHICAGO, ILL.

Mr. FOSTER. Mr. Chairman and gentlemen, the matter that I have here is in considerable degree quotations from statements that have been made.

Recollecting the statements made at your hearing on March 30, by the president of the Federation of Labor, and by Mr. Davenport, who, I understand, represents an employers' association, I must confess my great surprise in discovering such unanimity on the part of those gentlemen in opposition to the establishment of an arbitration tribunal for the settlement of industrial disputes. It was my recollection that those who had given public utterances as representatives of labor and employer that had won the most attention and exercised the greatest influence had advocated arbitration in some cases coupled with conciliation.

Referring to the statement of Mr. Gompers that he opposed arbitration, and that he believed the strike was a "good thing," and that the "recent anthracite strike had been a good thing," it may not be inopportune to refer to some of the utterances of this able gentleman and his distinguished associates made on public occasions in connection with the labors of the voluntary organization called the Civic Federation, and to claim that, having been advised of such utterances, that the author of this bill firmly believed that he was largely capitalizing what those leaders had outlined in their statements.

At the meeting of the National Civic Federation held in New York in December, 1901, there was present a notable and influential representation of both the labor and employer classes. The utterances of that occasion made excellent literature, and I believe will furnish the text that shall inspire those earnestly laboring for a solution of this great problem. On that occasion Mr. Gompers made a noteworthy and eloquent address, in which he said:

> We assert that the employer has no right to say to us that there is nothing to arbitrate. In that declaration is embodied all the evil and viciousness of the principle of master and slave.

Mr. Horace M. Eaton, general secretary of the boot and shoe union, explained to the conference the method adopted by his organization for arbitration, which explanation was received, it is said, with applause.

Mr. John Mitchell said:

> I have said on many occasions that I was opposed to strikes, opposed to lockouts, opposed to industrial turmoil; that I favored peace, but always with the qualification that it must be an honorable peace.

This in answer to Mr. Gompers, who said plainly at your last meeting that he thought the "strike was a good thing."

Mr. James Duncan, first vice-president of the American Federation of Labor, said:

> We find that voluntary arbitration is productive of the greatest amount of good, and I believe that from such deliberations upon disputed points and from the interest in conferences of this kind, a new era has arrived wherein the cause for which we stand will be given fuller consideration than it has had before and will be fraught with better results.

Martin Fox, president of the Iron Molders of North America, said:

> A more intelligent conception of the labor problem convinced the more broad-

minded element on both sides of the controversy that justice could never be done nor could satisfactory relations ever be established between the employer and the employee of a policy in which either was disposed to push his advantage to the utmost without regard to the interests or welfare of the other.

He said, further:

It is scarcely necessary to point out that strikes are extremely unprofitable to both interests involved, and that notwithstanding their success or nonsuccess have invariably left behind bitter feelings which augured ill for the future harmony of the working force and the management.

Mr. E. E. Clark, grand chief conductor of the Order of Railway Conductors of America, said:

I believe the principle of arbitration as a means of settlement of industrial disputes is gaining ground just as surely as the western hemisphere civilization is making progress.

Mr. W. O. Reed, president of the Massachusetts State board of mediation and arbitration, said:

It is perhaps enough to say that the establishment of some means of amicably settling differences is in the line of human progress, and for that reason alone deserves the best thought of us all.

NOTHING IN BILL THAT PREVENTS CONCILIATION.

I respectfully submit to you, Mr. Chairman, that there is nothing in the bill under consideration that in any way hinders or prevents conciliation, but on the other hand would further that desired consummation and settlement of contests where either of the parties chose that method rather than to respond to the invitation of the proposed tribunal to submit the matters in controversy to it. It would be a sufficient answer to an invitation from such tribunal that the parties in interest were engaged in a peaceful settlement of their affairs in their own way.

RIGHT TO STRIKE AND LOCKOUT.

The declaration of Mr. Gompers and Mr. Davenport that they respectively believed in the right of strikes and lockout, and that nothing in the way of legislation or of arbitration tribunals should interfere with it, could not have been made without consideration, first, for the interests of their organizations, and, second, and quite as important, the interests of the general public.

These athletic and sometimes fatal "discussions" sadly mar the peace of society. The scene of the conflict is not confined to a 24-foot ring, but jars frequently to its very foundation communities of thousands and sometimes of hundreds of thousands; the conflict sometimes involves the destruction of life, frequently the destruction of property. *The conflict always involves the arousing of malice, hatred, and murderous intent.* It cools the good impulses of good men engaged in it, and it inflames to wicked action those wickedly inclined.

THE STRIKE A GOOD THING?

The strike a good thing, Mr. Chairman! Is it possible that Mr. Gompers was earnest at the moment, or was it not in a facetious mood that he made this statement? Strikes and lockouts good things!

COST OF STRIKES $468,969,000 FROM 1881 TO 1900.

The cost of these amusements in this country from 1881 to 1900, so far as record can be made, was $468,969,000.

The report of 1901 of the Commissioner of Labor presents valuable statistics.

In order that the increase or diminution of strikes during the twenty-year period from January 1, 1881, to December 31, 1900, may be determined, the following table, showing the number of strikes in each year of this period, is presented

Strikes, by years, January 1, 1881, to December 31, 1900.

Year.	Strikes.		Establishments.		Average establishments to a strike.	Employees thrown out of employment.	
	Number.	Per cent of total.	Number.	Per cent of total.		Number.	Per cent of total.
1881	471	2.07	2,928	2.49	6.2	129,521	2.12
1882	454	1.99	2,105	1.79	4.6	154,671	2.53
1883	478	2.10	2,759	2.35	5.8	149,763	2.45
1884	443	1.94	2,367	2.01	5.3	147,054	2.41
1885	645	2.83	2,284	1.94	3.5	242,705	3.97
1886	1,432	6.28	10,053	8.56	7.0	508,044	8.32
1887	1,436	6.30	6,589	5.61	4.6	379,676	6.22
1888	906	3.98	3,506	2.98	3.9	147,704	2.42
1889	1,075	4.72	3,786	3.22	3.5	249,559	4.09
1890	1,833	8.04	9,424	8.02	5.1	351,944	5.76
1891	1,717	7.53	8,116	6.91	4.7	298,939	4.90
1892	1,298	5.69	5,540	4.71	4.3	206,671	3.38
1893	1,305	5.73	4,555	3.88	3.5	265,914	4.36
1894	1,349	5.92	6,196	6.98	6.1	660,425	10.82
1895	1,215	5.33	6,973	5.93	5.7	392,408	6.43
1896	1,026	4.50	5,462	4.65	5.3	241,170	3.95
1897	1,078	4.73	8,492	7.23	7.9	408,391	6.69
1898	1,056	4.63	3,809	3.24	3.6	[a] 249,002	[a] 4.08
1899	1,797	7.88	11,317	9.63	6.3	417,072	6.83
1900	1,779	7.81	9,248	7.87	5.2	505,066	8.27
Total	22,793	100.00	117,509	100.00	5.2	[a] 6,105,694	[a] 100.00

[a] Not including the number in 33 establishments for which these data were not obtainable.

The number of strikes for 1880 was reported by Mr. Joseph D. Weeks, special agent for the Tenth Census, as 610. From the above table it is seen that the total number of strikes in the United States during the twenty years beginning January 1, 1881, and ending December 31, 1900, was 22,793. Beginning in 1881 with 471, the number of strikes during 1882, 1883, and 1884 remained under 500. In 1885, however, the number increased to 645, while in 1886 it more than doubled, being 1,432 for that year. The number was practically the same in the succeeding year, but in 1888 a considerable decrease is shown, the number for that year being 906. In 1889 the number of strikes increased to 1,075, while in 1890 the number almost doubled, showing 1,833 strikes for that year—a number greater than that shown for any other year of the entire period. The year 1891 shows a slight decrease in the number of strikes, 1,717, while 1892 shows a considerable decrease, the number for that year being but 1,298.

No considerable change occurred during the next three years, the number for 1893 being 1,305, that for 1894 being 1,349, and that for 1895 being 1,215. In 1896, however, a considerable drop is seen, the number for that year being 1,026. The number of strikes remained practically stationary during 1896, 1897, and 1898, showing the smallest number since 1888 and 1889. In 1899, however, the number of strikes increased enormously, the number for that year being 1,797, while in 1900 practically no change in number occurred, the exact figure being 1,779. It is seen from this table that within the last eleven years the greatest number of strikes occurred in 1890 and 1891 and in 1899 and 1900, the two periods of greatest prosperity and industrial activity. The column of percentages immediately following the column in the table showing the number of strikes simply brings out in another form these variations from year to year in the number of strikes.

Taking up the columns showing the number of establishments involved in strikes, it is seen that the number in 1881 was 2,928. In 1882 the number dropped to 2,105,

while in 1883 it rose to 2,759, or nearly that of 1881. In 1884 and 1885 the number fell rapidly, there being but 2,367 establishments involved in 1884 and 2,284 in 1885. In 1886 the number was more than four times as great as that of the preceding year, being 10,053, the greatest number in any of the years considered, except 1899. In 1887 it dropped to 6,589; in 1888 it dropped still further, to 3,506, and remained nearly stationary in 1889 at 3,786, while in 1890 the number again rapidly rose to 9,424, a number almost as great as that for 1886. In the next year, 1891, the number dropped to 8,116, still further decreasing in 1892 and 1893, to 5,540 and 4,555, respectively.

In 1894 the number of establishments involved in strikes was almost double that of the preceding year, being 8,196, but in 1895 the number dropped to 6,973 and in 1896 to 5,462. In 1897, however, it rose to 8,492, while in 1898 it dropped as low as 3,809. The greatest number shown for any year in the period is that for 1899, it being 11,317, while in 1900 the number decreased to 9,248. The total number of establishments involved during the twenty-year period was 117,509. A percentage column is given showing the per cent of this total number of establishments which were involved in each year of the period. The average number of establishments to each strike for the twenty years is shown to be 5.2, the highest number being 7.9 establishments to each strike in 1897, and the lowest average being 3.5 establishments to each strike in 1885, 1889, and 1893.

The total number of employees involved or thrown out of employment in the whole number of strikes from 1881 to 1900, inclusive, as shown by this table, was 6,105,694, not including 33 establishments for which data were not obtainable. Of this number 660,425 were thrown out of employment in 1894 alone; over 500,000 in each of the years 1886 and 1900; over 400,000 in each of the years 1897 and 1899; 392,403 in 1895; 379,676 in 1887; 351,944 in 1890; between 200,000 and 300,000 in the years 1885, 1889, 1891, 1892, 1893, 1896, and 1898, and a smaller number in the remaining years of the period, that for 1881 being the smallest number, 129,521. Table V shows that the number of strikers or persons originating the strikes during the twenty years was 4,694,849, and that the number of new employees engaged after the strikes was 506,557, of whom 214,455 were brought from other places than those in which the strikes occurred. The per cent of new employees after strikes of the total number of employees before strikes (9,779,574) was therefore 5.18. Of the new employees after strikes 42.34 per cent were brought from places other than those in which the strikes occurred.

It should be remembered, in considering the tables relating to the number of establishments, the number of employees, etc., that the figures do not represent the actual number of different individual employees who were involved in strikes or lockouts in a given year or given industry, because in many cases there have been two or more strikes or lockouts in the same establishment in the same year, and in such cases the establishment and the number of employees are duplicated or triplicated, as the case may be, in the totals derived by addition. In the column "Employees for whom strike was undertaken" there is even more duplication of the kind mentioned. For instance, a sympathetic strike may occur, in which the employees strike to enforce the demands of certain employees in another establishment. The number of employees for whom the strike was undertaken would in that case be the number for whom it was undertaken in that other establishment. The same employees would therefore be used in that column—first, in connection with the establishment in which they were employed, and second, in the establishment in which the sympathetic strike occurred, thus unavoidably being duplicated in the tables derived by addition.

The following table relating to lockouts is drawn from Table XVI, and is entirely similar to that for strikes just presented:

Lockouts, by years, January 1, 1881, to December 31, 1900.

Year.	Lockouts.		Establishments.		Average establishments to a lockout.	Employees thrown out of employment.	
	Number.	Per cent of total.	Number.	Per cent of total.		Number.	Per cent of total.
1881	6	0.60	9	0.09	1.5	655	0.13
1882	22	2.19	42	.42	1.9	4,131	.82
1883	28	2.79	117	1.18	4.2	20,512	4.07
1884	42	4.18	354	3.57	8.4	18,121	3.59
1885	50	4.97	183	1.84	3.7	15,424	3.06
1886	140	13.93	1,509	15.19	10.8	101,980	20.22
1887	67	6.67	1,281	12.90	19.1	59,630	11.82
1888	40	3.98	180	1.81	4.5	15,176	3.01
1889	36	3.58	132	1.33	3.7	10,731	2.13
1890	64	6.37	324	3.26	5.1	21,555	4.28
1891	69	6.87	546	5.50	7.9	31,014	6.15
1892	61	6.07	716	7.21	11.7	32,014	6.35
1893	70	6.96	305	3.07	4.4	21,842	4.33
1894	55	5.47	875	8.81	15.9	29,619	5.87
1895	40	3.98	370	3.73	9.3	14,785	2.93
1896	40	3.98	51	.51	1.3	7,668	1.52
1897	32	3.18	171	1.72	5.3	7,763	1.54
1898	42	4.18	164	1.65	3.9	14,217	2.82
1899	41	4.08	323	3.25	7.9	14,817	2.94
1900	60	5.97	2,281	22.96	38.0	62,653	12.42
Total	1,005	100.00	9,933	100.00	9.9	504,307	100.00

It is seen from this table that lockouts constitute but a comparatively small proportion of industrial disturbances. The total number of lockouts in the United States during the twenty-year period was but 1,005, involving 9,933 establishments and 504,307 employees. The data given in the table may be analyzed in the same manner as those for strikes. Reference to Table XVI shows that 626,952 persons were employed in the 9,933 establishments in which lockouts occurred. Of this number 504,307, or 80.44 per cent, were thrown out of employment by reason of the lockouts. In these establishments there were 51,235 new employees engaged after the lockouts, of whom 25,220 were brought from places other than those in which the lockouts occurred. The per cent of new employees after the lockouts of the total number of employees before the lockouts was therefore 8.17, and of employees brought from other places of the number of new employees after lockouts, 49.22.

The following table, also drawn from Tables V and XVI, classifies by sex the employees thrown out of employment in consequence of strikes and lockouts:

Sex of employees thrown out of employment, by years, January 1, 1881, to December 31, 1900.

Year.	Strikes.			Lockouts.		
	Employees thrown out of employment.	Males (per cent).	Females (per cent).	Employees thrown out of employment.	Males (per cent).	Females (per cent).
1881	129,521	94.08	5.92	655	83.21	16.79
1882	154,671	92.15	7.85	4,131	93.80	6.20
1883	149,763	87.66	12.34	20,512	73.58	26.42
1884	147,054	88.78	11.22	18,121	78.93	21.07
1885	242,705	87.77	12.23	15,424	83.77	16.23
1886	508,044	86.17	13.83	101,980	63.02	36.98
1887	379,676	91.77	8.23	59,630	94.76	5.24
1888	147,704	91.50	8.50	15,176	79.53	20.47
1889	249,559	90.48	9.52	10,731	73.91	26.09
1890	351,944	90.53	9.47	21,555	72.49	27.51
1891	298,939	94.90	5.10	31,014	59.13	40.87
1892	206,671	93.57	6.43	32,014	96.02	3.98
1893	265,914	93.06	6.94	21,842	84.95	15.05
1894	660,425	90.14	9.86	29,619	84.94	15.06
1895	392,403	84.56	15.44	14,785	67.07	32.93
1896	241,170	87.08	12.92	7,668	89.95	10.05
1897	408,391	88.89	11.11	7,763	91.34	8.66
1898	[a] 249,002	[a] 85.78	[a] 14.22	14,217	88.85	11.15
1899	417,072	89.42	10.58	14,817	93.20	6.80
1900	506,066	94.80	5.20	62,653	93.17	6.83
Total	[a] 6,105,694	[a] 90.00	[a] 10.00	504,307	80.24	19.76

[a] Not including the number in 33 establishments for which these data were not obtainable.

This table shows that in the strikes which occurred during the twenty-year period from 1881 to 1900, out of a total of 6,105,694 employees involved or thrown out of employment, 90 per cent were males and 10 per cent females. The per cent of males varied within narrow bounds in the different years, the highest being found in 1891 with 94.90 and in 1900 with 94.80 per cent, and the lowest in 1895 with 84.56 and in 1898 with 85.78 per cent.

That portion of the table relating to lockouts shows a considerably lower per cent of males involved or thrown out of employment. Out of a total of 504,307 employees thrown out of employment by lockouts during the twenty-year period 80.24 per cent were males, and 19.76 per cent females. The largest proportion of males thrown out of employment is found in 1892 with 96.02 per cent and in 1887 with 94.76 per cent, while the smallest proportion is found in 1891 with 59.13 per cent and in 1886 with 63.02. A similar table to the preceding, showing the data classified by industries, will be found in the analysis of Table VII.

The following table shows the per cent of strikes and of lockouts which were ordered by organizations during the period from January 1, 1881, to December 31, 1900:

Strikes and lockouts ordered by organizations, January 1, 1881, to December 31, 1900.

Year.	Strikes (per cent).	Lockouts (per cent).	Year.	Strikes (per cent).	Lockouts (per cent).
1881	47.13	33.33	1892	70.72	22.96
1882	48.02	18.18	1893	69.43	21.43
1883	56.69	21.43	1894	[a]62.83	9.09
1884	53.95	26.19	1895	[b]54.25	7.50
1885	55.97	20.00	1896	[a]64.59	2.50
1886	53.07	30.00	1897	56.29	3.13
1887	[a]66.34	25.37	1898	60.42	7.14
1888	[b]68.14	20.00	1899	62.05	9.76
1889	67.35	11.11	1900	65.43	5.00
1890	[b]71.33	14.06			
1891	[a]74.83	13.04	Total	[c]63.46	17.01

[a] Not including 1 strike, for which these data were not obtainable.
[b] Not including 2 strikes, for which these data were not obtainable.
[c] Not including 10 strikes, for which these data were not obtainable.

It is seen from an examination of this table that of the 22,793 strikes which occurred during the twenty-year period 63.46 per cent were ordered by labor organizations, while of the 1,005 lockouts which occurred during the same period 17.01 per cent were ordered by combinations of employers. The years 1890, 1891, and 1892 show the largest proportions as regards strikes, 74.83 per cent being ordered by labor organizations in 1891, 71.33 in 1890, and 70.72 in 1892, while the first two years of the period, with 47.13 and 48.02 per cent, respectively, show the lowest proportions. As will be seen, the variations from year to year are confined within somewhat narrow bounds. As regards lockouts, the largest percentages are found in 1881, with 33.33, and in 1886, with 30 per cent. The smallest percentages are found during the last seven years of the period, 1896 showing but 2.50 and 1897 but 3.13 per cent.

The variations are quite marked with a decidedly decreasing proportion toward the latter portion of the period. In this connection attention is called to the two tables on pages 36 and 37 of this report, showing, respectively, by years and by industries, the number of strikes ordered by organizations which succeeded, which succeeded partly, and which failed, and also the number not ordered by organizations which may be properly classified under each of these three heads.

The following table shows for each year of the twenty-year period the percentage of the establishments involved in both strikes and lockouts which were closed in consequence of such disturbances:

Establishments closed January 1, 1881, to December 31, 1900.

Year.	Strikes (per cent).	Lockouts (per cent).	Year.	Strikes (per cent).	Lockouts (per cent).
1881	55.81	33.33	1892	65.60	66.90
1882	54.01	59.52	1893	65.64	40.98
1883	63.57	58.12	1894	69.90	61.14
1884	64.72	37.85	1895	85.82	90.00
1885	71.58	79.23	1896	83.67	41.18
1886	58.24	67.93	1897	83.50	79.53
1887	57.55	83.84	1898	77.21	64.02
1888	53.45	55.00	1899	67.77	30.65
1889	61.89	59.09	1900	56.02	91.89
1890	56.25	63.89			
1891	56.65	65.93	Total	65.73	71.96

It is seen from the table that out of a total of 117,509 establishments in which strikes occurred during the twenty-year period 65.73 per cent, or 77,244, were closed, while of the 9,933 establishments subjected to lockouts 71.95 per cent, or 7,147, were closed. Of the number of establishments closed on account of strikes, 97 were closed permanently or had strikes still pending at the end of one of the three periods, the facts for which are combined in this report. The average duration of stoppage, or days closed, in the 77,147 establishments which were temporarily closed on account of strikes and for which data were obtained as regards this point, was 20.1 days. Of the number of establishments which were closed by lockouts, 27 were closed permanently or had lockouts still pending at the end of one of the three periods, the facts for which are combined in this report.

The duration of stoppage, or days closed, in the 7,120 establishments which were temporarily closed on account of lockouts and for which data were obtained as regards this point, was 52.4 days. Referring again to the table it is seen that the per cent of establishments closed on account of strikes was greatest in the years 1895, 1896, 1897, and 1898, the figures being 85.82, 83.67, 83.50, and 77.21, while it was smallest in 1881, 1882, 1887, 1888, 1890, 1891, and 1900, being very close to 55 per cent for each of these years. A much greater variation is found in the per cent of establishments closed on account of lockouts, the figures ranging from 30.65 per cent in 1899 to 91.89 per cent in 1900.

The duration of strikes and lockouts—that is, the average length of time which elapsed before the establishments resumed operations and were running normally, either by reason of the strikers or employees locked out having returned to work or by their places having been filled by others—applies to all establishments, whether closed or not, and differs, of course, from the figures given for duration of entire stoppage of work, which applies only to establishments entirely closed. The following table shows the average duration or days to date when strikers or employees locked out were reemployed or their places filled by others for each of the years from 1881 to 1900, inclusive. A small number of establishments which were closed permanently in consequence of strikes or lockouts or in which strikes or lockouts were still pending have, of necessity, been omitted in computing the averages.

Duration of strikes and lockouts, January 1, 1881, to December 31, 1900.

Year.	Strikes.		Lockouts.	
	Establishments.	Average duration (days).	Establishments.	Average duration (days).
1881	2,928	12.8	9	32.2
1882	2,105	21.9	42	105.0
1883	2,759	20.6	117	57.5
1884	2,367	30.5	354	41.4
1885	2,284	30.1	183	27.1
1886	10,053	23.4	1,509	39.1
1887	6,589	20.9	1,281	49.8
1888	3,506	20.3	180	74.9
1889	3,786	26.2	132	57.5
1890	9,424	24.2	324	73.9
1891	8,116	34.9	546	37.8
1892	5,540	23.4	716	72.0
1893	4,555	20.6	305	34.7
1894	8,196	32.4	875	39.7
1895	6,973	20.5	370	32.3
1896	5,462	22.0	51	65.1
1897	8,492	27.4	171	38.6
1898	3,809	22.5	164	48.8
1899	11,317	15.2	323	37.5
1900	9,248	23.1	2,281	265.1
Total	117,509	23.8	9,933	97.1

The average duration of strikes during the twenty-year period, as shown by this table, was 23.8 days, while that of lockouts was 97.1 days. With the exception of 1881 and 1899, in which the average duration of strikes was very short, and 1884, 1885, 1891, and 1894, in which it was comparatively long, the duration as shown for the several years of the period does not vary greatly from the average of 23.8 days. The conditions, however, as regards lockouts are quite different, the variations from year to year being very considerable. Considering strikes only, which constitute the great mass of these industrial disturbances, while the average duration does not appear great, in the aggregate the number of days involved amounts to the enormous number of 2,789,160, which reduced amounts to 7,641.5 years. It should be remembered, however, that the days so lost to the wageworker and the producer do not represent in many instances an absolute loss, as in a great number of cases this cessation of the work of production does away with the necessity of stoppage at some other time for the purpose of restricting the output to the demands of trade, making repairs, etc.

One of the most important features of the tabulation is the statement of the losses of the employees and of the employers by reason of strikes and lockouts. These figures were collected with the greatest possible care, and, although in many cases only an estimate could be secured, the results as given are believed to be a very close approximation to the exact losses. It is natural to suppose that after the lapse of several years exact figures could not be secured concerning facts of which no record is kept in most instances. The figures here given are for the immediate, and in many instances only temporary, losses of employees and employers. In most businesses, as previously intimated, there are seasons of entire or partial idleness among the employees, owing to sickness, voluntary lay offs, running slack time, etc., the working days per year being on an average from 200 to 250 days out of a possible 313.

When a strike or lockout occurs in an establishment whose business is of such a character it is often followed by a period of unusual activity, in which the employee and employer both make up the time lost by reason of the temporary cessation of business on account of the strike. The employer may in some instances be subjected to an ultimate loss by reason of his inability to fill contracts already made, but it may be accepted as a fact that much of the loss in the cases of both employer and employee is only temporary. It was found impossible, however, for the agents of the Department to take these facts into consideration, inasmuch as in many instances a period of six months or even a year must have elapsed before the whole or even a part of such loss was made up. The computation of wage loss has therefore been based on the number of employees thrown out of employment, their average wages, and the number of working days which elapsed before they were reemployed or secured work elsewhere. The amounts representing employers' losses are the figures (in most cases estimates) furnished by the firms themselves, the Department's agents being instructed to consider as well as they could their probable correctness.

In the tables in which the statement is made by years the figures can not represent absolute accuracy for a given year, because many strikes beginning in one year ended in another; the entire loss and assistance, as well as the other facts included in the tabulation, have been placed in the year in which the strike or lockout began. These differences may, however, counterbalance each other and the reported results thus be nearly accurate.

Bearing in mind, then, the difficulties in ascertaining the exact losses of employees and employers as a result of strikes and lockouts, reference may be had to the following table showing the amount of loss to employees and to employers, and the amount of assistance granted employees by their labor organizations, for a period of twenty years, from January 1, 1881, to December 31, 1900:

Wage loss of employees, assistance to employees, and loss of employers, January 1, 1881, to December 31, 1900.

[In a small number of instances the facts covered in this table have not been reported and consequently have not been included in the figures here given.]

Year.	Strikes.			Lockouts.		
	To date when strikers were reemployed or employed elsewhere.		Loss of employers.	To date when employees locked out were reemployed or employed elsewhere.		Loss of employers.
	Wage loss of employees.	Assistance to employees by labor organizations.		Wage loss of employees.	Assistance to employees by labor organizations.	
1881	$3,372,578	$287,999	$1,919,483	$18,519	$3,150	$6,960
1882	9,864,228	734,339	4,269,094	466,345	47,668	112,382
1883	6,274,480	461,233	4,696,027	1,069,212	102,253	297,097
1884	7,666,717	407,871	3,393,073	1,421 410	314,027	640,847
1885	10,663,248	465,827	4,388,893	901,173	89,488	455,477
1886	14,992,453	1,122,130	12,357,808	4,281,058	549,452	1,949,498
1887	16,560,534	1,121,554	6,698,495	4,233,700	155,846	2,819,736
1888	6,377,749	1,752,668	6,509,017	1,100,057	85,931	1,217,199
1889	10,409,686	592,017	2,936,752	1,379,722	115,389	307,125
1890	13,875,338	910,285	5,135,404	957,966	77,210	486,258
1891	14,801,505	1,132,557	6,176,688	893,709	50,195	616,888
1892	10,772,622	833,874	5,145,691	2,856,013	537,684	1,695,080
1893	9,938,048	563,183	3,406,195	6,659,401	364,268	1,034,420
1894	37,145,532	931,052	18,982,129	2,022,769	160,244	982,584
1895	13,044,830	559,165	5,072,282	791,703	67,701	584,155
1896	11,098,207	462,165	5,304,235	690,945	61,355	357,535
1897	17,468,904	721,164	4,868,687	583,606	47,326	298,044
1898	10,037,284	585,228	4,596,462	880,461	47,098	239,403
1899	15,157,965	1,096,030	7,443,407	1,485,174	126,957	379,365
1900	18,341,570	1,434,452	9,431,299	16,136,802	448,219	5,447,930
Total	257,863,478	16,174,793	122,731,121	48,819,745	3,451,461	19,927,983

The loss to employees in the establishments in which strikes occurred for the period of twenty years was $257,863,478. The loss to employees through lockouts for the same period was $48,819,745, or a total loss to employees by reason of these two classes of industrial disturbances of $306,683,223. The number of establishments involved in strikes during this period was 117,509, making an average loss of $2,194 to employees in each establishment in which strikes occurred. The number of persons thrown out of employment by reason of strikes was 6,105,694, making an average loss of $42 to each person involved. The number of establishments involved in lockouts was 9,993, making an average loss of $4,915 to employees in each establishment in which lockouts occurred, while the number of employees thrown out was 504,307, making an average loss of $97 to each person involved.

Combining the figures for strikes and lockouts it is seen that the wage loss to employees, as above stated, was $306,683,223, and the number of establishments involved 127,442, while 6,610,001 persons were thrown out of employment. These figures show an average wage loss of $2,406 to the employees in each establishment and an average loss of $46 to each person involved.

The assistance given to strikers during the twenty years, so far as ascertainable, was $16,174,793; to those involved in lockouts $3,451,461, or a total of $19,626,254. This sum represents but 6.40 per cent of the total wage loss incurred in strikes and lockouts, and is probably too low. In addition to this sum, which includes only assistance from labor organizations, much assistance was furnished by outside sympathizers, the amount of which the Department had no means of ascertaining.

The loss to employers through strikes during the twenty years amounted to $122,731,121; their losses through lockouts amounted to $19,927,983, making a total loss to the establishments or firms involved in strikes and lockouts during this period of $142,659,104, or an average loss of $1,119 to each firm or establishment involved.

Table VI.—Summary of strikes for the United States, by States.—This table summarizes the facts given in Tables I and III, showing in brief form the data for each State, the strikes for all industries and for all of the twenty years being combined to secure the totals for the States as shown here. Table XVII of the report relates to lockouts and is entirely similar to this table in both its title and the arrangement of the facts included therein.

The following table shows the number and per cent of strikes and of establishments involved in strikes in each State during the period from January 1, 1881, to December 31, 1900, together with information as to the average number of establishments to a strike and the number and per cent of employees thrown out of employment by reason of strikes:

Strikes by States, January 1, 1881, to December 31, 1900.

States and Territories.	Strikes.		Establishments.		Average establishments to a strike.	Employees thrown out of employment.	
	Number.	Per cent of total.	Number.	Per cent of total.		Number.	Per cent of total.
Alabama	210	0.921	494	0.420	2.4	53,609	0.878
Arizona	3	.013	5	.004	1.7	147	.002
Arkansas	31	.136	86	.073	2.8	8,941	.146
California	341	1.496	948	.807	2.8	42,097	.689
Colorado	213	.934	840	.715	3.9	49,774	.815
Connecticut	586	2.571	1,021	.869	1.7	53,996	.884
Delaware	45	.197	188	.160	4.2	7,254	.119
District of Columbia	62	.272	451	.384	7.3	7,239	.119
Florida	231	1.013	855	.728	3.7	62,599	1.025
Georgia	190	.834	578	.492	3.0	30,448	.499
Idaho	13	.057	14	.012	1.1	3,331	.055
Illinois	2,640	11.583	20,784	17.687	7.9	850,599	13.931
Indiana	562	2.422	1,964	1.671	3.6	132,344	2.168
Indian Territory	7	.031	57	.048	8.1	7,544	.124
Iowa	351	1.540	1,408	1.198	4.0	72,598	1.189
Kansas	101	.443	303	.258	3.0	30,090	.493
Kentucky	223	.978	895	.762	4.0	50,849	.833
Louisiana	64	.281	1,488	1.266	23.3	62,984	1.031
Maine	172	.755	254	.216	1.5	33,961	.556
Maryland	242	1.062	1,049	.893	4.3	59,590	.976
Massachusetts	1,705	7.480	5,099	4.339	3.0	348,470	5.707
Michigan	344	1.509	1,174	.999	3.4	91,364	1.496
Minnesota	383	1.680	1,633	1.390	4.3	69,110	1.132
Mississippi	10	.044	35	.030	3.5	2,027	.033
Missouri	406	1.781	3,516	2.992	8.7	107,526	1.761
Montana	43	.189	66	.056	1.5	[a] 7,746	[a] .127
Nebraska	77	.338	331	.282	4.3	23,784	.389
Nevada	1	.004	1	.001	1.0	21	$001
New Hampshire	128	.562	190	.162	1.5	24,877	.407
New Jersey	805	3.532	3,209	2.731	4.0	150,123	2.459
New Mexico	17	.075	22	.019	1.3	4,118	.067
New York	6,460	28.342	37,845	32.206	5.9	[b] 1,193,361	[b] 19.545
North Carolina	9	.039	9	.008	1.0	1,003	.016
North Dakota	22	.097	26	.022	1.2	1,996	.033
Ohio	1,571	6.892	5,712	4.861	3.6	415,651	6.808
Oklahoma	2	.009	3	.002	1.5	261	$004
Oregon	28	.123	244	.208	8.7	8,387	.137
Pennsylvania	2,846	12.486	18,438	15.691	6.5	1,666,043	27.287
Rhode Island	199	.873	409	.348	2.1	45,615	.747
South Carolina	22	.097	51	.043	2.3	3,039	.050
South Dakota	18	.079	30	.025	1.7	1,260	.021
Tennessee	236	1.035	652	.555	2.8	51,251	.839
Texas	144	.632	574	.488	4.0	19,941	.327
Utah	33	.145	197	.168	6.0	3,774	.062
Vermont	32	.140	397	.338	12.4	8,344	.137
Virginia	115	.505	249	.212	2.2	24,258	.397
Washington	98	.430	355	.302	3.6	12,301	.201
West Virginia	180	.790	764	.650	4.2	93,583	1.533
Wisconsin	556	2.439	2,568	2.185	4.6	99,642	1.632
Wyoming	26	.114	28	.024	1.1	6,874	.113
Total	22,793	100.000	117,509	100.000	5.2	[c] 6,105,694	[c] 100.000

[a] Not including the number in 12 establishments for which these data were not obtainable.
[b] Not including the number in 21 establishments for which these data were not obtainable.
[c] Not including the number in 33 establishments for which these data were not obtainable.

During the twenty years included in the present report it is seen that New York shows the largest number of strikes as well as the largest number of establishments affected, the number of strikes being 6,460, representing 28.342 per cent of the total strikes during the period, and the number of establishments affected being 37,845, representing 32.206 per cent of the total number involved during the period. Pennsylvania follows with 2,846 strikes, or 12.486 per cent of total strikes, and Illinois with 2,640, or 11.583 per cent. As regards establishments affected by strikes, Illinois follows New York with 20,784, or 17.687 per cent, while Pennsylvania comes next with 18,438, or 15.691 per cent. Considering the last two columns of this table, it is

seen that the greatest number of employees thrown out of employment by reason of strikes is found in Pennsylvania, which shows 1,666,043 for the twenty-year period, or 27.287 per cent. New York follows with 1,193,361, or 19.545 per cent; Illinois with 850,599, or 13.931 per cent; Ohio with 415,651, or 6.808 per cent; Massachusetts with 348,470, or 5.707 per cent, etc.

The following table for lockouts is similar to the one for strikes just preceding.

Lockouts, by States, January 1, 1881, to December 31, 1900.

States and Territories.	Lockouts.		Establishments.		Average establishments to a lockout.	Employees thrown out of employment.	
	Number.	Per cent of total.	Number.	Per cent of total.		Number.	Per cent of total.
Alabama	3	0.30	7	0.07	2.3	738	0.146
Arizona	1	.10	1	.01	1.0	15	.003
Arkansas	2	.20	2	.02	1.0	8	.002
California	22	2.19	79	.80	3.6	3,677	.729
Colorado	9	.90	27	.27	3.0	2,371	.470
Connecticut	59	5.87	158	1.59	2.7	22,560	4.473
Delaware	1	.10	1	.01	1.0	188	.037
District of Columbia	2	.20	9	.09	4.5	168	.033
Florida	8	.80	34	.34	4.3	3,621	.718
Georgia	11	1.09	100	1.01	9.1	5,376	1.066
Idaho	1	.10	6	.06	6.0	3,000	.595
Illinois	95	9.45	3,551	35.75	37.4	132,906	26.354
Indiana	16	1.59	152	1.58	9.5	2,432	.482
Iowa	14	1.39	17	.17	1.2	1,464	.290
Kansas	3	.30	7	.07	2.3	5,080	1.007
Kentucky	13	1.29	24	.24	1.8	1,149	.228
Maine	8	.80	70	.70	8.8	5,989	1.188
Maryland	13	1.29	56	.56	4.3	1,636	.324
Massachusetts	97	9.65	540	5.44	5.6	35,981	7.135
Michigan	22	2.19	67	.68	3.0	4,761	.944
Minnesota	25	2.49	94	.95	3.8	2,952	.585
Missouri	20	1.99	67	.68	3.4	3,427	.680
Montana	5	.50	21	.21	4.2	783	.155
Nebraska	4	.40	7	.07	1.8	893	.177
New Hampshire	5	.50	43	.43	8.6	1,997	.396
New Jersey	24	2.39	129	1.30	5.4	8,454	1.676
New Mexico	1	.10	1	.01	1.0	200	.040
New York	216	21.49	3,395	34.18	15.7	149,651	29.675
North Carolina	1	.10	17	.17	17.0	1,250	.248
North Dakota	3	.30	3	.03	1.0	15	.003
Ohio	80	7.96	255	2.57	3.2	20,866	4.138
Oregon	2	.20	48	.48	24.0	460	.091
Pennsylvania	117	11.64	683	6.88	5.8	57,743	11.450
Rhode Island	5	.50	42	.42	8.4	6,574	1.304
South Carolina	1	.10	1	.01	1.0	20	.004
South Dakota	2	.20	2	.02	1.0	73	.015
Tennessee	16	1.59	23	.23	1.4	1,525	.302
Texas	13	1.29	13	.13	1.0	241	.048
Utah	2	.20	2	.02	1.0	225	.045
Vermont	1	.10	24	.24	24.0	618	.123
Virginia	13	1.29	29	.29	2.2	2,345	.465
Washington	11	1.09	33	.33	3.0	821	.163
West Virginia	9	.90	16	.16	1.8	4,535	.899
Wisconsin	28	2.78	76	.77	2.7	5,346	1.060
Wyoming	1	.10	1	.01	1.0	173	.034
Total	1,005	100.00	9,983	100.00	9.9	504,307	100.000

It is seen that 21.49 per cent of the lockouts which occurred during the period were in New York, 11.64 per cent were in Pennsylvania, 9.65 per cent were in Massachusetts, 9.45 per cent in Illinois; 7.96 per cent in Ohio, etc. Considering the establishments affected, however, the order is as follows: Illinois with 35.75 per cent, New York with 34.18 per cent, Pennsylvania with 6.88 per cent, Massachusetts with 5.44 per cent, Ohio with 2.57 per cent, etc. As regards the number of persons thrown out of employment by reason of lockouts, New York leads with 149,651, or 29.675 per cent, and is followed by Illinois with 132,906, or 26.354 per cent; Pennsylvania with 57,743, or 11.450 per cent; Massachusetts with 35,981, or 7.135 per cent; Connecticut with 22,560, or 4.473 per cent; Ohio with 20,866, or 4.138 per cent, etc.

An examination of the preceding tables shows that during the twenty-year period ending December, 31, 1900, the majority of all establishments affected by strikes and lockouts were located in the five States of Illinois, Massachusetts, New York, Ohio, and Pennsylvania. The following table shows the percentages for each year for the five States named:

Establishments involved in strikes and lockouts in Illinois, Massachusetts, New York, Ohio, and Pennsylvania, January 1, 1881, to December 31, 1900.

Year.	Strikes.			Lockouts.		
	Total establishments in the United States.	Establishments in the five selected States.	Per cent of establishments in the five selected States.	Total establishments in the United States.	Establishments in the five selected States.	Per cent of establishments in the five selected States.
1881	2,928	2,154	73.57	9	4	44.44
1882	2,105	1,499	71.21	42	23	54.76
1883	2,759	2,046	74.16	117	105	89.74
1884	2,367	1,896	80.10	354	306	86.44
1885	2,284	1,586	69.44	183	140	76.50
1886	10,053	7,675	76.35	1,509	1,403	92.98
1887	6,589	4,761	72.26	1,281	1,188	92.74
1888	3,506	2,404	68.57	180	114	63.33
1889	3,786	2,275	60.09	132	65	49.24
1890	9,424	6,990	74.17	324	203	62.65
1891	8,116	5,775	71.16	546	339	62.09
1892	5,540	3,200	57.76	716	522	72.91
1893	4,555	3,186	69.95	305	190	62.30
1894	8,196	6,418	78.31	875	802	91.66
1895	6,973	5,637	80.84	370	295	79.73
1896	5,462	4,549	83.28	51	39	76.47
1897	8,492	7,396	87.09	171	156	91.23
1898	3,809	2,937	77.11	164	101	61.59
1899	11,317	9,660	85.36	323	281	87.00
1900	9,248	5,834	63.08	2,281	2,148	94.17
Total	117,509	87,878	74.78	9,983	8,424	84.81

These States contained 45.02 per cent of all the manufacturing establishments, and employed 55.15 per cent of the capital invested in the mechanical industries of the United States, according to figures furnished the Department by the Census Office. It is seen from the table that these five States contained 74.78 per cent of all of the establishments involved in strikes and 84.81 per cent of all involved in lockouts during the twenty-year period included in this report. For strikes the proportion varied in the different years from 57.76 per cent in 1892 to 87.09 in 1897, while for lockouts the lowest proportion is found in 1881, with 44.44 per cent, and the highest in 1900, with 94.17 per cent.

As regards the employees involved in strikes, almost the same per cent is shown. The information may be drawn from a preceding table that of all employees involved in strikes during the period of twenty years, 46.83 per cent were employed in establishments located in the two States of Pennsylvania and New York; 60.76 per cent were employed in establishments located in the three States of Pennsylvania, New York, and Illinois; 67.57 per cent in establishments located in the four States of Pennsylvania, New York, Illinois, and Ohio, and 73.28 per cent in establishments located in the five States of Pennsylvania, New York, Illinois, Ohio, and Massachusetts. Of all the employees involved in lockouts during the period, 56.03 per cent were employed in establishments in the two States of New York and Illinois; 67.48 per cent in establishments located in the three States of New York, Illinois, and Pennsylvania; 74.61 per cent in establishments located in the four States of New York, Illinois, Pennsylvania, and Massachusetts, and 78.75 per cent in establishments in the five States of New York, Illinois, Pennsylvania, Massachusetts, and Ohio.

The distribution of strikes and lockouts, by principal cities, during the twenty years from January 1, 1881, to December 31, 1900, is shown in the following tables:

Strikes in principal cities, January 1, 1881, to December 31, 1900.

Cities.	Total strikes.	Establishments.	Employees thrown out of employment.	Wage loss of employees.	Assistance to employees by labor organizations.	Loss of employers.
New York, N. Y.	5,090	33,161	962,470	$22,172,603	$2,540,455	$11,813,291
Chicago, Ill.	1,737	17,176	593,000	18,787,422	2,409,894	22,123,344
Philadelphia, Pa.	615	5,045	197,538	5,374,653	402,161	3,186,998
Allegheny and Pittsburg, Pa.	500	5,432	175,795	9,026,746	813,589	3,099,815
Boston, Mass.	363	2,272	63,154	1,945,333	342,865	1,504,152
St. Louis, Mo.	256	2,511	71,889	3,183,524	342,178	5,369,326
Cincinnati, Ohio	250	1,236	57,098	1,796,317	203,836	1,273,476
San Francisco, Cal.	215	650	18,687	1,101,921	238,984	823,702
Cleveland, Ohio.	207	879	45,569	1,962,432	131,909	1,106,194
Milwaukee, Wis.	187	1,722	38,977	2,014,380	279,325	1,133,810
Baltimore, Md	182	850	36,572	1,156,949	106,097	651,062
Newark, N. J.	166	1,472	28,460	937,028	109,391	243,997
Buffalo, N. Y.	164	1,210	40,627	1,303,798	144,329	1,291,215
Lynn, Mass.	155	203	9,741	430,437	50,969	194,148
Fall River, Mass.	146	375	66,424	2,123,252	90,074	451,449
Paterson, N. J.	134	313	37,883	1,680,187	93,344	757,511
New Haven, Conn.	126	278	8,435	359,157	51,078	136,050
Detroit, Mich.	116	483	22,193	972,805	155,165	567,367
Minneapolis, Minn.	114	696	16,996	308,627	31,707	331,796
Total.	10,723	75,964	2,491,508	76,637,571	8,537,350	56,058,702

Lockouts in principal cities, January 1, 1881, to December 31, 1900.

Cities.	Total lockouts.	Establishments.	Employees thrown out of employment.	Wage loss of employees.	Assistance to employees by labor organizations.	Loss of employers.
New York, N. Y.	145	2,808	84,802	$4,325,526	$855,595	$1,228,444
Chicago, Ill.	57	3,469	128,691	20,188,089	229,478	8,574,850
Philadelphia, Pa.	40	159	17,212	681,522	77,627	592,885
Boston, Mass.	22	135	3,727	248,034	45,650	412,261
Allegheny and Pittsburg, Pa.	19	394	12,929	5,539,078	290,025	786,234
Cincinnati, Ohio.	19	123	8,121	750,449	248,002	411,440
San Francisco, Cal.	17	74	3,582	115,760	14,030	49,325
St. Louis, Mo	15	55	2,622	541,367	110,469	100,740
Albany, N. Y	13	222	4,044	151,186	26,083	107,040
Cleveland, Ohio	13	24	1,988	80,873	13,690	95,039
Baltimore, Md	12	55	1,611	66,762	a 29,926	34,720
St. Paul, Minn	11	56	1,061	30,855	8,315	46,250
Minneapolis, Minn	11	31	1,767	29,956	2,921	26,100
Milwaukee, Wis	11	29	2,147	260,998	12,375	515,725
Detroit, Mich	11	19	2,777	164,904	29,760	62,500
Newark, N. J	10	71	3,411	170,804	17,727	57,980
Haverhill, Mass.	10	57	7,436	101,606	5,900	60,400
Buffalo, N. Y.	10	50	1,686	120,768	6,458	58,695
Norwich, Conn	10	10	2,365	29,293	2,577	24,775
Total.	456	7,841	291,929	33,597,825	a 2,026,603	13,245,408

a Not including the amount in 1 establishment for which these data were not obtainable.

In the case of both strikes and lockouts the cities shown are the 20 in which the greatest number of these disturbances occurred during the period included in the report. It will be noticed that the cities are practically the same in both classes of disturbances.

Considering the table for strikes, it is seen that out of a total of 22,793 strikes for the entire country during the twenty-year period 10,723, or 47.05 per cent, occurred in the 20 cities included in the table. The number of establishments involved in strikes in the United States during the period was shown as 117,509, of which number 75,964, or 64.65 per cent, occurred in the 20 cities. The number of employees thrown out of employment in the United States during the period by reason of strikes was 6,105,694, of which 2,491,508, or 40.81 per cent, were employed in establishments located in the 20 cities included in the table. The wage loss to employees through strikes in the 20 cities was $76,637,571, as against $257,863,478 for the entire country; the loss to employers $56,058,702, as against $122,731,121; and the assistance to employees by labor organizations $8,537,350, as against $16,174,793.

The proportion of the total wage loss occurring in strikes in these cities was, consequently, 29.72 per cent, while that of the employers' losses was 45.68 per cent. The assistance rendered strikers in these cities was 52.78 per cent of the total amount of assistance rendered to strikers in the entire country. These 20 cities contained 25.30 per cent of all the manufacturing establishments and employed 35.38 per cent of the capital invested in the mechanical industries of the United States, according to figures furnished the Department by the Census Office. Six of the 20 cities—New York, Chicago, Philadelphia, Allegheny, Pittsburg, and Boston—reported 8,305 strikes, or 36.44 per cent of all the strikes which occurred in the United States during the period involved, and 63,086 establishments, or 53.69 per cent of the whole number of establishments involved. The table for lockouts may be analyzed in a similar manner.

Table VII.—Summary of strikes for the United States, by industries.—This table summarizes the facts given in Table IV, showing in brief form the data for each industry, the strikes for all States and for all of the twenty years being combined to secure the totals for the industries as shown here. Table XVIII of the report relates to lockouts and is entirely similar to this table in both its title and the arrangement of the facts included therein.

The industries affected by strikes during the twenty-year period ending December 31, 1900, are shown in the following table, with especial reference to the number of strikes in each, the number of establishments affected, and the number of employees thrown out of employment.

Strikes, by industries, January 1, 1881, to December 31, 1900.

Industries.	Strikes.		Establishments.		Average establishments to a strike.	Employees thrown out of employment.	
	Number.	Per cent of total.	Number.	Per cent of total.		Number.	Per cent of total.
Agricultural implements	51	0.22	52	0.04	1.0	13,881	0.23
Boots and shoes	862	3.78	1,264	1.08	1.5	137,267	2.25
Brewing	81	.35	364	.31	4.4	8,948	.15
Brick	184	.81	1,193	1.02	6.4	65,153	1.07
Building trades	4,440	19.48	41,910	35.67	9.4	[a] 665,946	[a] 10.91
Carpeting	137	.60	353	.30	2.6	53,740	.88
Carriages and wagons	57	.25	389	.33	6.8	11,958	.20
Clothing	1,638	7.19	19,695	16.76	12.0	563,772	9.23
Coal and coke	2,515	11.03	14,575	12.40	5.8	1,892,435	31.05
Cooperage	236	1.03	891	.76	3.8	20,444	.33
Cotton and woolen goods	195	.85	280	.24	1.4	44,104	.72
Cotton goods	512	2.25	637	.54	1.2	212,209	3.48
Domestic service	175	.77	468	.40	2.7	13,014	.21
Food preparations	408	1.79	5,126	4.36	12.6	110,245	1.81
Furniture	406	1.78	1,108	.94	2.7	49,901	.82
Glass	374	1.64	599	.51	1.6	89,151	1.46
Leather and leather goods	208	.91	382	.32	1.8	21,462	.35
Lumber	179	.78	699	.59	3.9	64,415	1.06
Machines and machinery	453	1.99	1,174	1.00	2.6	89,495	1.47
Metals and metallic goods	2,080	9.13	4,652	3.96	2.2	511,336	8.37
Musical instruments	54	.24	86	.07	1.6	6,995	.11
Paper and paper goods	43	.19	43	.04	1.0	1,552	.03
Pottery, earthenware, etc	75	.33	179	.15	2.4	25,350	.42
Printing and publishing	765	3.36	1,723	1.47	2.3	40,288	.66
Public ways construction	390	1.71	648	.55	1.7	72,755	1.19
Public works construction	218	.96	243	.21	1.1	30,144	.49
Railroad car building	94	.41	96	.08	1.0	25,573	.42
Rope and bagging	19	.08	23	.02	1.2	3,695	.06
Rubber goods	56	.25	56	.05	1.0	14,827	.24
Shipbuilding, etc	151	.66	373	.32	2.5	35,068	.57
Silk goods	287	1.26	398	.34	1.4	53,819	.88
Stone quarrying and cutting	856	3.76	3,583	3.05	4.2	110,523	1.81
Telegraph and telephone	95	.42	135	.11	1.4	11,712	.19
Tobacco	1,509	6.62	6,153	5.24	4.1	251,096	4.11
Transportation	1,265	5.55	3,436	2.92	2.7	484,454	7.93
Trunks and valises	21	.09	22	.02	1.0	879	.01
Watches	20	.09	20	.02	1.0	2,756	.05
Wooden goods	294	1.29	1,056	.90	3.6	53,359	.87
Woolen and worsted goods	289	1.27	307	.26	1.1	58,985	.97
Miscellaneous	1,102	4.83	3,118	2.65	2.8	182,968	2.94
Total	22,793	100.00	117,509	100.00	5.2	[a] 6,105,694	[a] 100.00

[a] Not including the number in 33 establishments for which these data were not obtainable.

The industries most affected by strikes during the period included in the present report were the building trades, with 4,440 strikes, involving 41,910 establishments and 665,946 employees; coal and coke, with 2,515 strikes, involving 14,575 establishments and 1,892,435 employees; metals and metallic goods, with 2,080 strikes, involving 4,652 establishments and 511,336 employees; clothing, with 1,638 strikes, involving 19,695 establishments and 563,772 employees; tobacco, with 1,509 strikes, involving 6,153 establishments and 251,096 employees, and transportation, with 1,265 strikes, involving 3,436 establishments and 484,454 employees. It is thus seen that of the 22,793 strikes which occurred during the period, 59 per cent were in the six industries just mentioned, while of the 117,509 establishments involved, 76.95 per cent were so engaged. As regards the employees thrown out of employment by strikes, 71.56 per cent of the total number were connected with establishments engaged in these six industries.

A table for lockouts similar in all respects to the preceding one for strikes follows:

Lockouts, by industries, January 1, 1881, to December 31, 1900.

Industries.	Lockouts.		Establishments.		Average establishments to a lockout.	Employees thrown out of employment.	
	Number.	Per cent of total.	Number.	Per cent of total.		Number.	Per cent of total.
Agricultural implements	4	0.40	5	0.05	1.3	930	0.184
Boots and shoes	59	5.87	292	2.94	4.9	37,013	7.339
Brewing	16	1.59	166	1.67	10.4	7,173	1.422
Brick	4	.40	49	.49	12.3	2,114	.419
Building trades	95	9.45	5,001	50.35	52.6	120,057	23.806
Carpeting	4	.40	4	.04	1.0	3,717	.737
Carriages and wagons	2	.20	2	.02	1.0	235	.047
Clothing	100	9.95	2,034	20.48	20.3	83,606	16.578
Coal and coke	45	4.48	56	.57	1.2	12,879	2.554
Cooperage	12	1.19	21	.21	1.8	1,132	.225
Cotton and woolen goods	2	.20	2	.02	1.0	858	.169
Cotton goods	20	1.99	51	.51	2.6	12,941	2.566
Domestic service	8	.79	20	.20	2.5	311	.062
Food preparations	24	2.39	49	.49	2.0	22,967	4.554
Furniture	34	3.38	141	1.42	4.1	4,037	.801
Glass	40	3.98	138	1.39	3.5	26,845	5.323
Leather and leather goods	16	1.59	138	1.39	8.6	7,781	1.543
Lumber	5	.50	19	.19	3.8	3,249	.644
Machines and machinery	25	2.49	25	.25	1.0	4,213	.835
Metals and metallic goods	130	12.93	272	2.74	2.1	36,055	7.149
Musical instruments	4	.40	14	.14	3.5	4,356	.864
Pottery, earthenware, etc	5	.50	30	.30	6.0	4,410	.875
Printing and publishing	88	8.76	117	1.18	1.3	3,070	.609
Rope and bagging	1	.10	1	.01	1.0	300	.060
Shipbuilding, etc	3	.30	7	.07	2.3	357	.071
Silk goods	5	.50	6	.06	1.2	2,098	.416
Stone quarrying and cutting	43	4.28	516	5.20	12.0	15,864	3.146
Telegraph and telephone	1	.10	1	.01	1.0	15	.003
Tobacco	124	12.34	339	3.41	2.7	41,762	8.281
Transportation	23	2.29	127	1.28	5.5	10,875	2.156
Watches	1	.10	1	.01	1.0	65	.013
Wooden goods	11	1.09	51	.51	4.6	1,716	.340
Woolen and worsted goods	12	1.19	25	.25	2.1	7,820	1.551
Miscellaneous	39	3.88	213	2.15	5.5	23,492	4.658
Total	1,005	100.00	9,933	100.00	9.9	504,307	100.00

In the lockouts which occurred during the twenty years also, the six industries—building trades, coal and coke, metals and metallic goods, clothing, tobacco, and transportation—bear a very large proportion of the burden, having 51.44 per cent of the total lockouts, with 78.82 per cent of the establishments involved and 60.53 per cent of the employees thrown out of employment

The following short table, which includes data for the entire period of twenty years, shows the number of persons thrown out of employment by strikes and lockouts in each of the industries, subdivided as to sex:

Sex of employees thrown out of employment, by industries, January 1, 1881, to December 31, 1900.

Industries.	Strikes.			Lockouts.		
	Employees thrown out of employment.	Males (per cent).	Females (per cent).	Employees thrown out of employment.	Males (per cent).	Females (per cent).
Agricultural implements	13,881	99.06	0.94	930	100.00	.....
Boots and shoes	137,267	73.24	26.76	37,013	67.34	32.66
Brewing	8,948	99.85	.15	7,173	99.99	.01
Brick	65,153	99.79	.21	2,114	100.00	.....
Building trades	a 665,946	a 99.76	a .24	120,057	99.99	.01
Carpeting	53,740	51.91	48.09	8,717	37.45	62.55
Carriages and wagons	11,958	98.70	1.30	235	93.62	6.38
Clothing	563,772	62.69	37.31	83,606	50.93	49.07
Coal and coke	1,892,435	100.00	.....	12,879	100.00	.....
Cooperage	20,444	99.99	.01	1,132	100.00	.....
Cotton and woolen goods	44,104	47.16	52.84	858	32.24	67.76
Cotton goods	212,209	47.54	52.46	12,941	47.10	52.90
Domestic service	13 014	96.69	3.31	311	100.00	.....
Food preparations	110,245	97.20	2.80	22,967	95.95	4.05
Furniture	49,901	97.97	2.03	4,037	100.00	.....
Glass	89,151	95.25	4.75	26,845	93.50	6.50
Leather and leather goods	21,462	97.93	2.07	7,781	100.00	.....
Lumber	64,415	99.95	.05	3,249	100.00	.....
Machines and machinery	89,495	99.45	.55	4,213	99.88	.12
Metals and metallic goods	511,336	99.23	.77	36,055	99.66	.34
Musical instruments	6,995	99.07	.93	4,355	99.93	.07
Paper and paper goods	1,552	68.11	31.89	.....	.....	.....
Pottery, earthenware, etc	25,350	82.41	17.59	4,410	77.73	22.27
Printing and publishing	40,288	92.17	7.83	3,070	82.08	17.92
Public ways construction	72,755	100.00	.....	.....	.....	.....
Public works construction	30,144	100.00	.....	.....	.....	.....
Railroad car building	25,573	99.57	.43	.....	.....	.....
Rope and bagging	3,695	57.05	42.95	300	58.33	41.67
Rubber goods	14,827	57.08	42.92	.....	.....	.....
Shipbuilding, etc	35,088	100.00	.....	357	100.00	.....
Silk goods	53,819	48.60	51.40	2,098	52.81	47.19
Stone quarrying and cutting	110,523	100.00	.....	15,864	100.00	.....
Telegraph and telephone	11,712	94.35	5.65	15	100.00	.....
Tobacco	251,096	62.62	37.38	41,762	60.87	39.13
Transportation	484,454	99.99	.01	10,875	100.00	.....
Trunks and valises	879	98.75	1.25	.....	.....	.....
Watches	2,756	78.56	21.44	65	100.00	.....
Wooden goods	53,359	98.13	1.87	1,716	100.00	.....
Woolen and worsted goods	58,985	53.81	46.19	7,820	53.77	46.23
Miscellaneous	182,968	89.00	11.00	23,492	51.62	48.38
Total	a 6,105,694	a 90.00	a 10.00	504,307	80.24	19.76

a Not including the number in 33 establishments for which these data were not obtainable.

A preceding table gave similar data by years instead of by industries, showing that, as a whole, but 10 per cent of the employees thrown out of employment by reason of strikes were females, while 90 per cent were males. In the present table may be seen the industries in which female employees were most deeply involved in strikes.

Of the employees thrown out of employment by reason of strikes it is seen that in the cotton and woolen goods industry 52.84 per cent were females; in cotton goods, 52.46 per cent; in silk goods, 51.40 per cent; in carpeting, 48.09 per cent; in woolen and worsted goods, 46.19 per cent; in rope and bagging, 42.95 per cent; in rubber goods, 42.92 per cent; in tobacco, 37.38 per cent; in clothing, 37.31 per cent; in paper and paper goods, 31.89 per cent; in boots and shoes, 26.76 per cent; in watches, 21.44 per cent; in pottery, earthenware, etc., 17.59 per cent, etc. In lockouts the largest proportion of females thrown out of employment are found in the following industries: Cotton and woolen goods, 67.76 per cent; carpeting, 62.55 per cent; cotton goods, 52.90 per cent; clothing, 49.07 per cent; silk goods, 47.19 per cent; woolen and worsted goods, 46.23 per cent; rope and bagging, 41.67 per cent; tobacco, 39.13 per cent; boots and shoes, 32.66 per cent, etc.

The following table shows the number of persons actually striking during the period from January 1, 1887, to December 31, 1900, by industries and by sex. It

will be noticed that the first six years of the period are not included in this table. The fact that the employees striking were not subdivided as to sex in the first report on strikes rendered necessary the omission of the period covered by that report. A comparison of the percentages shown for females in this table, which includes only those employees actually striking, with those shown in the preceding one, which includes not only those striking, but also those thrown out of employment by strikes, will afford information as to whether female employees are as active as male employees in urging their demands which lead to strikes.

Number and per cent of strikers, by sex and industry, January 1, 1887, to December 31, 1900.

Industries.	Number.			Per cent.	
	Male.	Female.	Total.	Male.	Female.
Agricultural implements	2,580	.....	2,580	100.00	.....
Boots and shoes	43,203	12,379	55,582	77.73	22.27
Brewing	4,212	.....	4,212	100.00	.....
Brick	40,914	.....	40,914	100.00	.....
Building trades	463,052	1,183	464,235	99.75	.25
Carpeting	12,132	7,571	19,703	61.57	38.43
Carriages and wagons	4,957	30	4,987	99.40	.60
Clothing	302,981	103,762	406,743	74.49	25.51
Coal and coke	1,350,040	.....	1,350,040	100.00	.....
Cooperage	8,212	.....	8,212	100.00	.....
Cotton and woolen goods	8,216	7,532	15,748	52.17	47.83
Cotton goods	48,315	48,823	97,138	49.74	50.26
Domestic service	11,855	338	12,193	97.23	2.77
Food preparations	41,870	1,556	43,426	96.42	3.58
Furniture	19,552	673	20,225	96.67	3.33
Glass	30,363	587	30,950	98.10	1.90
Leather and leather goods	11,444	281	11,725	97.60	2.40
Lumber	23,335	.....	23,335	100.00	.....
Machines and machinery	45,310	59	45,369	99.87	.13
Metals and metallic goods	193,870	1,487	195,357	99.24	.76
Musical instruments	4,242	5	4,247	99.88	.12
Paper and paper goods	607	490	1,097	55.33	44.67
Pottery, earthenware, etc	13,386	3,131	16,517	81.04	18.96
Printing and publishing	25,102	1,491	26,593	94.39	5.61
Public ways construction	47,748	.....	47,748	100.00	.....
Public works construction	20,480	.....	20,480	100.00	.....
Railroad car building	12,098	100	12,198	99.18	.82
Rope and bagging	1,006	1,055	2,061	48.81	51.19
Rubber goods	1,985	1,971	3,956	50.18	49.82
Shipbuilding, etc	21,181	.....	21,181	100.00	.....
Silk goods	18,690	9,026	27,716	67.43	32.57
Stone quarrying and cutting	80,508	.....	80,508	100.00	.....
Telegraph and telephone	4,421	260	4,681	94.45	5.55
Tobacco	93,485	38,160	131,645	71.01	28.99
Transportation	248,491	44	248,535	99.98	.02
Trunks and valises	861	1	862	99.88	.12
Watches	754	130	884	85.29	14.71
Wooden goods	30,978	43	31,021	99.86	.14
Woolen and worsted goods	11,927	10,865	22,792	52.33	47.67
Miscellaneous	105,653	11,694	117,347	90.03	9.97
Total	3,409,966	264,727	3,674,693	92.80	7.20

Table VIII.—Causes, etc., of strikes, by States.—In this table is taken up separately each of the States in which strikes have occurred during the twenty-year period, and under each of these States separate data are given for each cause or object, showing, for the strikes which occurred on account of each cause or which were undertaken for each object, the number of establishments involved, and the number of these in which strikes succeeded, succeeded partly, and failed. Table XIX of the report relates to lockouts, and is entirely similar to this table in both its title and the arrangement of the facts included therein.

Table IX.—Causes etc., of strikes, by years.—This table is similar to the preceding one, showing separate data for each year of the period, classified as to the causes or objects for which the strikes were undertaken. Table XX, for lockouts, corresponds to this table in both title and arrangement.

The per cent of establishments in which strikes and lockouts succeeded, succeeded partly, and failed during each of the twenty years ending December 31, 1900, together with a total for the entire period, are shown in the following summary:

Results, for establishments, of strikes and lockouts, January 1, 1881, to December 31, 1900.

[This table does not include the results for 180 establishments for which the data were not obtainable by reason of the fact that strikes or lockouts were still pending, etc.]

Year.	Per cent of establishments in which strikes—			Per cent of establishments in which lockouts—		
	Succeeded.	Succeeded partly.	Failed.	Succeeded.	Succeeded partly.	Failed.
1881	61.37	7.00	31.63	88.89	11.11	.....
1882	58.59	8.17	33.24	64.29	.....	35.71
1883	58.17	16.09	25.74	56.41	.....	43.59
1884	51.50	8.89	44.61	27.97	.28	71.75
1885	52.80	9.50	37.70	38.25	3.28	58.47
1886	34.50	18.85	46.65	21.18	13.11	65.71
1887	45.64	7.19	47.17	34.19	1.25	64.56
1888	52.22	5.48	42.30	74.44	3.89	21.67
1889	46.49	18.91	34.60	40.91	25.76	33.33
1890	52.65	10.01	37.34	65.74	5.56	28.70
1891	37.88	8.29	53.83	63.92	14.29	21.79
1892	39.31	8.70	51.99	69.13	25.28	5.59
1893	50.86	10.32	38.82	41.90	18.31	39.79
1894	38.09	13.50	48.41	11.31	2.40	86.29
1895	55.24	9.94	34.82	13.24	.27	86.49
1896	59.19	7.47	33.34	80.39	1.96	17.65
1897	57.31	28.12	14.57	60.82	3.51	35.67
1898	64.19	6.38	29.43	63.41	.61	35.98
1899	73.24	14.25	12.51	18.01	.62	81.37
1900	46.43	20.62	32.95	94.30	.31	5.39
Total	50.77	13.04	36.19	50.79	6.28	42.93

So far as strikes are concerned, it is seen that out of a total of 117,472 establishments affected by strikes during the twenty-year period, and for which the results were ascertained, the employees were successful in gaining their demands in 59,637, or 50.77 per cent; they partly succeeded in attaining the objects for which the strike was instituted in 15,325, or 13.04 per cent, while failure followed in 42,510, or 36.19 per cent. In a small number of establishments, constituting three-hundredths of 1 per cent of the whole number involved in strikes, data were not obtainable by reason of the fact that strikes were still pending at the end of one of the three periods included in the report, and these, therefore, have not been included in the table.

Of the lockouts during the twenty years for which results were ascertained, the firms gained their point in 4,972, or 50.79 per cent, of the establishments; they partly succeeded in 615, or 6.28 per cent, while they failed in 4,203, or 42.93 per cent. In 1.44 per cent of the whole number of establishments involved the lockouts were either still pending at the end of one of the three periods comprised in the report or the results were not obtainable, and for this reason they have not been included in the table. The number of establishments, both in strikes and lockouts, for which no result could be secured for the reason stated is too small to affect in any appreciable degree the proportions given. The considerable variations in these proportions from year to year may be seen by reference to the table itself.

In order to show the results of the strikes ordered by organizations as compared with those of the strikes not so ordered, the following series of tables is presented. The first two tables show, respectively, by years and by industries, the number of strikes ordered by organizations and the number of establishments in which strikes succeeded, succeeded partly, and failed, and the number not so ordered which could be properly classified under each of these three heads. The last two tables of the series are drawn from the first two and are entirely similar in form, showing the facts in the form of percentages. The tables follow:

Number of establishments in which strikes succeeded, succeeded partly, and failed in strikes ordered and not ordered by organizations, by years, January 1, 1881, to December 31, 1900.

[Attention is drawn to the fact that the first column of each section of this table relates to the number of *strikes*, while the succeeding columns relate to the number of *establishments* in which these strikes occurred. The latter number is much greater owing to the fact that a single strike frequently extended to two or more establishments. This table does not include the results for 37 establishments for which the data were not obtainable by reason of the fact that strikes were still pending, etc., and for 10 strikes involving 104 establishments for which information was not obtainable as to whether they were ordered or were not ordered by organizations.]

Year.	Strikes ordered by organizations.					Strikes not ordered by organizations.				
	Number of strikes.	Number of establishments in which strikes—				Number of strikes.	Number of establishments in which strikes—			
		Succeeded.	Succeeded partly.	Failed.	Total.		Succeeded.	Succeeded partly.	Failed.	Total.
1881	222	1,452	143	618	2,213	249	345	62	308	715
1882	218	902	153	545	1,600	236	226	19	260	505
1883	271	1,489	426	402	2,317	207	116	18	308	442
1884	289	1,094	64	803	1,961	204	125	28	253	406
1885	361	1,032	170	418	1,620	284	174	47	443	664
1886	760	2,949	1,801	4,054	8,804	672	514	91	629	1,234
1887	952	2,780	413	2,553	5,746	483	227	61	554	842
1888	616	1,721	153	1,190	3,064	288	110	39	291	440
1889	724	1,877	645	997	3,019	351	383	71	313	767
1890	1,306	4,607	868	3,068	8,533	525	354	75	459	888
1891	1,284	2,838	598	3,943	7,379	432	236	75	331	642
1892	918	1,986	442	2,622	5,050	380	192	40	258	490
1893	906	2,159	436	1,408	4,003	399	156	34	359	549
1894	847	2,716	994	3,561	7,271	501	406	112	406	924
1895	658	3,614	613	1,873	6,100	555	237	80	554	871
1896	662	3,069	322	1,522	4,913	363	164	86	298	548
1897	596	4,653	2,301	844	7,798	482	214	87	393	694
1898	638	2,245	198	777	3,220	418	200	45	344	589
1899	1,115	7,968	1,481	990	10,439	682	321	131	426	878
1900	1,164	4,089	1,845	2,521	8,405	615	247	58	520	825
Total	14,457	54,690	14,066	34,699	103,455	8,326	4 947	1,259	7,707	13,918

Number of establishments in which strikes succeeded, succeeded partly, and failed in strikes ordered and not ordered by organizations, by industries, January 1, 1881, to December 31, 1900.

[Attention is drawn to the fact that the first column of each section of this table relates to the number of strikes, while the succeeding columns relate to the number of establishments in which these strikes occurred. The latter number is much greater owing to the fact that a single strike frequently extended to two or more establishments. This table does not include the results for 37 establishments for which the data were not obtainable by reason of the fact that strikes were still pending, etc., and for 10 strikes involving 104 establishments for which information was not obtainable as to whether they were ordered or were not ordered by organizations.]

Industries.	Strikes ordered by organizations.					Strikes not ordered by organizations.				
	Number of strikes.	Number of establishments in which strikes—				Number of strikes.	Number of establishments in which strikes—			
		Succeeded.	Succeeded partly.	Failed.	Total.		Succeeded.	Succeeded partly.	Failed.	Total.
Agricultural implements	30	7	4	20	31	21	6	2	13	21
Boots and shoes	639	412	97	506	1,015	223	86	12	151	249
Brewing	73	132	71	151	354	8	6	.....	4	10
Brick	96	307	211	337	855	88	93	4	241	338
Building trades	3,989	22,596	5,393	12,917	40,906	451	516	91	381	988
Carpeting	45	65	5	63	133	92	53	32	135	220
Carriages and wagons	20	313	11	27	351	37	12	6	20	38
Clothing	1,365	14,073	1,488	3,451	19,012	273	377	33	273	683
Coal and coke	1,303	2,147	3,891	5,544	11,582	1,209	967	296	1,629	2,892
Cooperage	152	437	65	175	677	84	137	5	72	214
Cotton and woolen goods	28	6	25	68	99	172	42	29	110	181
Cotton goods	106	25	46	135	206	406	95	33	301	429
Domestic service	101	122	123	138	383	74	8	2	75	85

Number of establishments in which strikes succeeded, succeeded partly, and failed in strikes ordered and not ordered by organizations, by industries, etc.—Continued.

Industries.	Strikes ordered by organizations.					Strikes not ordered by organizations.				
	Number of strikes.	Number of establishments in which strikes—				Number of strikes.	Number of establishments in which strikes—			
		Succeeded.	Succeeded partly.	Failed.	Total.		Succeeded.	Succeeded partly.	Failed.	Total.
Food preparations.	308	3,274	87	1,549	4,910	100	85	8	123	216
Furniture	333	359	110	554	1,023	72	12	6	67	85
Glass	188	159	30	155	344	186	50	14	189	253
Leather and leather goods	110	91	30	150	271	98	33	7	71	111
Lumber	83	71	52	243	366	95	78	25	229	332
Machines and machinery	300	583	107	316	1,006	152	42	18	107	167
Metals and metallic goods	1,055	1,778	351	1,305	3,434	1,024	341	121	752	1,214
Musical instruments	46	18	13	47	78	8	2	1	5	8
Paper and paper goods	8	3	1	4	8	35	4	2	29	35
Pottery, earthenware, etc	40	13	62	41	116	35	11	9	43	63
Printing and publishing	657	669	159	750	1,578	108	41	3	94	138
Public ways construction	70	115	23	46	184	320	158	54	252	464
Public works construction	35	24	9	14	47	183	75	24	97	196
Railroad car building	25	5	1	20	26	69	15	14	41	70
Rope and bagging	4	6	.....	2	8	15	5	2	8	15
Rubber goods	13	1	2	10	13	43	11	5	27	43
Shipbuilding, etc	83	110	39	94	243	68	39	15	76	130
Silk goods	133	85	26	127	238	154	48	21	91	160
Stone quarrying and cutting	612	1,663	611	904	3,178	244	210	25	170	405
Telegraph and telephone	28	23	17	20	60	67	15	5	54	74
Tobacco	1,102	2,223	324	2,755	5,302	407	515	94	242	851
Transportation	554	1,215	244	788	2,247	708	387	115	683	1,185
Trunks and valises	11	3	1	8	12	10	3	3	4	10
Watches	9	3	2	4	9	11	3	.....	8	11
Wooden goods	227	350	27	572	949	67	16	.....	91	107
Woolen and worsted goods	37	11	13	25	49	252	71	33	154	258
Miscellaneous	444	1,193	295	664	2,152	657	279	90	595	964
Total	14,457	54,690	14,066	34,699	103,455	8,326	4,947	1,259	7,707	13,913

Per cent of establishments in which strikes succeeded, succeeded partly, and failed in strikes ordered and not ordered by organizations, by years, January 1, 1881, to December 31, 1900.

[Attention is drawn to the fact that the first column of each section of this table relates to the number of strikes, while the succeeding columns relate to the number of establishments in which these strikes occurred. The latter number is much greater owing to the fact that a single strike frequently extended to two or more establishments. This table does not include the results for 37 establishments for which the data were not obtainable by reason of the fact that strikes were still pending, etc., and for 10 strikes involving 104 establishments for which information was not obtainable as to whether they were ordered or were not ordered by organizations.]

Year.	Strikes ordered by organizations.				Strikes not ordered by organizations.			
	Number of strikes.	Per cent of establishments in which strikes—			Number of strikes.	Per cent of establishments in which strikes—		
		Succeeded.	Succeeded partly.	Failed.		Succeeded.	Succeeded partly.	Failed.
1881	222	65.61	6.46	27.93	249	48.25	8.67	43.08
1882	218	56.38	9.56	34.06	236	44.75	3.76	51.49
1883	271	64.26	18.39	17.35	207	26.25	4.07	69.68
1884	239	55.79	8.26	40.95	204	30.79	6.90	62.31
1885	361	63.70	10.50	25.80	284	26.20	7.08	66.72
1886	760	33.49	20.46	46.05	672	41.65	7.38	50.97
1887	952	48.38	7.19	44.43	483	26.96	7.24	65.80
1888	616	56.17	4.99	38.84	288	25.00	8.86	66.14
1889	724	45.61	21.37	33.02	351	49.93	9.26	40.81
1890	1,306	58.99	10.17	35.84	525	39.86	8.45	51.69
1891	1,284	38.46	8.10	53.44	432	36.76	11.68	51.56
1892	918	39.33	8.75	51.92	380	39.19	8.16	52.65
1893	906	53.94	10.89	35.17	399	28.42	6.19	65.39
1894	847	37.35	13.67	48.98	501	43.94	12.12	43.94
1895	658	59.26	10.06	30.70	555	27.21	9.18	63.61
1896	662	62.47	6.55	30.98	363	29.93	15.69	54.38
1897	696	59.67	29.51	10.82	482	30.83	12.54	56.63
1898	638	69.72	6.15	24.13	416	33.96	7.64	58.40
1899	1,115	76.33	14.19	9.48	682	36.56	14.92	48.52
1900	1,164	48.06	21.95	29.99	615	29.94	7.03	63.03
Total	14,457	52.86	13.60	33.54	8,326	35.56	9.05	55.39

Per cent of establishments in which strikes succeeded, succeeded partly, and failed in strikes ordered and not ordered by organizations, by industries, January 1, 1881, to December 31, 1900.

[Attention is drawn to the fact that the first column of each section of this table relates to the number of strikes, while the succeeding columns relate to the number of establishments in which these strikes occurred. The latter number is much greater owing to the fact that a single strike frequently extended to two or more establishments. This table does not include the results for 37 establishments for which the data were not obtainable by reason of the fact that strikes were still pending, etc., and for 10 strikes involving 104 establishments for which information was not obtainable as to whether they were ordered or were not ordered by organizations.]

Industries	Strikes ordered by organizations.				Strikes not ordered by organizations.			
	Number of strikes.	Per cent of establishments in which strikes—			Number of strikes.	Per cent of establishments in which strikes—		
		Succeeded.	Succeeded partly.	Failed.		Succeeded.	Succeeded partly.	Failed.
Agricultural implements	30	22.58	12.90	64.52	21	28.57	9.52	61.91
Boots and shoes	639	40.59	9.56	49.85	223	34.54	4.82	60.64
Brewing	73	37.29	20.06	42.65	8	60.00	.....	40.00
Brick	96	35.91	24.68	39.41	88	27.52	1.18	71.30
Building trades	3,989	55.24	13.18	31.58	451	52.23	9.21	38.56
Carpeting	45	48.87	3.76	47.37	92	24.09	14.55	61.36
Carriages and wagons	20	89.17	3.14	7.69	37	31.58	15.79	52.63
Clothing	1,365	74.02	7.83	18.15	273	55.20	4.83	39.97
Coal and coke	1,303	18.54	33.59	47.87	1,209	33.44	10.23	56.33
Cooperage	152	64.55	9.60	25.85	84	64.02	2.34	33.64
Cotton and woolen goods	23	6.06	25.25	68.69	172	23.21	16.02	60.77
Cotton goods	106	12.14	22.33	65.53	406	22.15	7.69	70.16
Domestic service	101	31.85	32.12	36.03	74	9.41	2.35	88.24
Food preparations	308	66.68	1.77	31.55	100	39.35	3.70	56.95
Furniture	333	35.09	10.75	54.16	72	14.12	7.06	78.82
Glass	188	46.22	8.72	45.06	186	19.76	5.54	74.70
Leather and leather goods	110	33.58	11.07	55.35	98	29.73	6.31	63.96
Lumber	83	19.40	14.21	66.39	95	23.49	7.53	68.98
Machines and machinery	300	57.95	10.64	31.41	152	25.15	10.78	64.07
Metals and metallic goods	1,055	51.78	10.22	38.00	1,024	28.09	9.97	61.94
Musical instruments	46	23.08	16.67	60.25	8	25.00	12.50	62.50
Paper and paper goods	8	37.50	12.50	50.00	35	11.43	5.71	82.86
Pottery, earthenware, etc	40	11.21	53.45	35.34	35	17.46	14.29	68.25
Printing and publishing	657	42.39	10.08	47.53	108	29.71	2.17	68.12
Public ways construction	70	62.50	12.50	25.00	320	34.05	11.64	54.31
Public works construction	35	51.06	19.15	29.79	183	38.27	12.24	49.49
Railroad car building	25	19.23	3.85	76.92	69	21.43	20.00	58.57
Rope and bagging	4	75.00	.....	25.00	15	33.33	13.33	53.34
Rubber goods	13	7.69	15.39	76.92	43	25.58	11.63	62.79
Shipbuilding, etc	83	45.27	16.05	38.68	68	30.00	11.54	58.46
Silk goods	133	35.71	10.93	53.36	154	30.00	13.12	56.88
Stone quarrying and cutting	612	52.33	19.23	28.44	244	51.85	6.17	41.98
Telegraph and telephone	28	38.34	28.33	33.33	67	20.27	6.76	72.97
Tobacco	1,102	41.93	6.11	51.96	407	60.52	11.04	28.44
Transportation	554	54.07	10.86	35.07	708	32.66	9.70	57.64
Trunks and valises	11	25.00	8.33	66.67	10	30.00	30.00	40.00
Watches	9	33.33	22.22	44.45	11	27.27	.....	72.73
Wooden goods	227	36.88	2.85	60.27	67	14.95	.....	85.05
Woolen and worsted goods	37	22.45	26.53	51.02	252	27.52	12.79	59.69
Miscellaneous	444	55.44	13.71	30.85	657	28.94	9.34	61.72
Total	14,457	52.86	13.60	33.54	8,326	35.56	9.05	55.39

Taking up first the tables which show the number and per cent of establishments in which strikes succeeded, succeeded partly, and failed in strikes ordered and not ordered by organizations, for each year of the period, it is seen that of the 103,455 establishments in which strikes were reported as ordered by organizations during the twenty-year period, the strikers gained their demands in 54,690, or 52.86 per cent of the establishments; they succeeded in partly gaining them in 14,066, or 13.60 per cent of the establishments; while they entirely failed in only 34,699, or 33.54 per cent of the establishments. On the other hand it is seen that in the 13,913 establishments in which strikes were reported as not having been ordered by organizations, the strikers succeeded in gaining their demands in but 4,947, or 35.56 per cent of the establishments; they partly succeeded in 1,259, or 9.05 per cent of the establishments; while in 7,707, or 55.39 per cent of the establishments, they entirely failed in gaining any part of their demands.

An examination of the figures for each of the twenty years of the period shows without exception similar conditions as to the success and failure of strikes ordered and not ordered by organizations; and, while the percentages vary in the different years, the tables show that strikes ordered by and carried on under the auspices of labor organizations were more generally successful than those not so ordered and assisted. The per cent of establishments in which strikes ordered by organizations succeeded varied from 33.49 per cent in 1886 to 76.33 per cent in 1899, while the per cent in which strikes not so ordered succeeded varied from 25 per cent in 1888 to 49.93 per cent in 1889. The conditions as regards the success and nonsuccess of strikes ordered and not ordered by organizations, especially as regards the different industries in which strikes occurred during the period, may be seen by reference to the table immediately preceding.

The following table shows the results of strikes, so far as the employees are concerned, for the twenty years ending December 31, 1900:

Results, for employees, of strikes, January 1, 1881, to December 31, 1900.

[This table does not include the results for 37 establishments for which the data were not obtainable by reason of the fact that strikes were still pending, etc.]

Year.	Number thrown out of employment.			Per cent thrown out of employment.		
	In successful strikes.	In partly successful strikes.	In strikes which failed.	In successful strikes.	In partly successful strikes.	In strikes which failed.
1881	55,600	17,482	56,439	42.98	13.50	43.57
1882	45,746	7,112	101,813	29.58	4.60	65.82
1883	55,140	17,024	77,599	36.82	11.37	51.81
1884	52,736	5,044	89,274	35.86	3.43	60.71
1885	115,375	23,855	103,475	47.54	9.83	42.63
1886	195,400	74,167	238,229	38.48	14.61	46.91
1887	127,579	26,442	225,655	33.60	6.97	59.43
1888	41,106	11,130	95,468	27.83	7.54	64.63
1889	72,099	62,607	114,853	28.89	25.09	46.02
1890	158,787	48,444	144,681	45.12	13.77	41.11
1891	80,766	22,885	195,288	27.02	7.65	65.33
1892	61,125	16,429	129,117	29.58	7.96	62.47
1893	62,018	41,765	160,741	23.44	15.79	60.77
1894	117,500	137,534	405,391	17.79	20.83	61.38
1895	156,388	43,729	192,286	39.86	11.14	49.00
1896	99,823	34,508	106,839	41.39	14.31	44.30
1897	158,858	152,812	97,221	38.90	37.29	23.81
1898	108,669	23,012	117,321	43.64	9.24	47.12
1899	227,208	59,655	130,214	54.48	14.30	31.22
1900	145,218	195,807	163,477	28.81	38.75	32.44
Total	2,137,136	1,020,443	2,945,381	35.02	16.72	48.26

The totals, as given in this table, show that the number of persons thrown out of employment in the 59,637 establishments in which strikes succeeded was 2,137,136. In the establishments in which partial success was gained 1,020,443 employees were involved, while in the 42,510 establishments in which strikes failed 2,945,381 persons were thrown out of employment. The last three columns of the table show for each year, and for the twenty years, the per cent of employees thrown out of employment in establishments in which strikes succeeded, partly succeeded, and failed. In compiling these percentages the employees involved in the comparatively small number of establishments in which strikes were still pending or in which the results were not reported for other reasons (about four and one-half hundredths of 1 per cent)

were not considered. Taking the total for the period of twenty years, it is seen that 35.02 per cent of the whole number of persons thrown out of employment, in strikes whose results were obtainable, succeeded in gaining the object for which they struck; 16.72 per cent succeeded partly; while 48.26 per cent failed entirely in gaining their demands.

Table X.—Causes, etc., of strikes by industries.—This table includes the facts for all strikes which occurred during the twenty-year period, and furnishes data similar to those given in Tables VIII and IX, classified by the industries in which establishments under strike were engaged, instead of by States as in Table VIII, or years as in Table IX. The corresponding table for lockouts is numbered XXI.

Table XI.—Summary of causes, etc., of strikes for the United States.—This table summarizes the causes, etc., of strikes for all States, all industries, and for the entire period of twenty years, a line being given for each separate cause or object of strikes, without regard to the State, year, or industry in which the strikes occurred. The corresponding lockout table is numbered XXII.

The following shows the 20 leading causes or objects of the strikes which occurred during the twenty-year period beginning January 1, 1881, and ending December 31, 1900, together with the number and per cent of establishments falling under each:

Leading causes of strikes, January 1, 1881, to December 31, 1900.

Cause or object.	Establishments.	Per cent.
For increase of wages	33,731	28.70
For increase of wages and reduction of hours	13,201	11.23
For reduction of hours	13,116	11.16
Against reduction of wages	8,423	7.17
In sympathy with strike elsewhere	4,078	3.47
Against employment of nonunion men	2,751	2.34
For adoption of new scale	2,742	2.33
For recognition of union	1,649	1.40
For increase of wages and recognition of union	1,111	.95
For enforcement of union rules	1,068	.91
For adoption of union scale	928	.79
For reduction of hours and against being compelled to board with employer	927	.79
Against task system	917	.78
For reduction of hours and against task system	901	.77
For adoption of union rules and union scale	880	.75
For reinstatement of discharged employees	868	.74
For increase of wages, Saturday half holiday, and privilege of working for employers not members of masters' association	800	.68
Against reduction of wages and working overtime	750	.64
For increase of wages and against use of material from nonunion establishment	750	.64
For increase of wages and Saturday half holiday	729	.62
Total of 20 leading causes	90,320	76.86
All other causes (1,382)	27,189	23.14
Total for the United States	117,509	100.00

An examination of the causes or objects for which strikes were undertaken during the period included in this report, as given in Table XI, shows that 20 principal causes included 76.86 per cent of all the establishments, leaving the remaining 1,382 causes active in only 23.14 per cent of the establishments subjected to strikes during the period. It is seen further that practically three causes, involving increase of wages, reduction of hours, and reduction of wages, cover the first four lines of the table, and that these included not less than 58.26 per cent of all the establishment involved in strikes during the last twenty years.

The following table shows for each of these 20 leading causes of strikes the per cent of establishments in which strikes succeeded, succeeded partly, and failed. A few establishments in which strikes were still pending or in which the results were not reported have not, of course, been included.

Results of strikes undertaken for the twenty leading causes, January 1, 1881, to December 31, 1900.

Cause or object.	Per cent of establishments in which strikes—		
	Succeeded.	Succeeded partly.	Failed.
For increase of wages	52.77	17.38	29.85
For increase of wages and reduction of hours	62.49	21.08	16.43
For reduction of hours	49.43	8.66	41.91
Against reduction of wages	32.54	13.14	54.32
In sympathy with strike elsewhere	25.08	2.33	72.64
Against employment of nonunion men	67.21	1.38	31.41
For adoption of new scale	35.34	30.09	34.57
For recognition of union	12.37	.....	87.63
For increase of wages and recognition of union	13.41	17.46	69.13
For enforcement of union rules	89.79	.....	10.21
For adoption of union scale	46.23	.43	53.34
For reduction of hours and against being compelled to board with employer	32.47	.....	67.53
Against task system	50.93	.....	49.07
For reduction of hours and against task system	100.00	.....	.....
For adoption of union rules and union scale	64.20	5.23	30.57
For reinstatement of discharged employees	40.67	1.96	57.37
For increase of wages, Saturday half holiday, and privilege of working for employers not members of masters' association	100.00	.....	.....
Against reduction of wages and working overtime	100.00	.....	.....
For increase of wages and against use of material from nonunion establishment	.....	.....	100.00
For increase of wages and Saturday half holiday	77.64	15.09	7.27
Total	50.44	13.58	36.08

In the strikes undertaken to secure an increase of wages, which, as has been seen from the previous table, included 28.70 per cent of all establishments involved during the 20 years, success resulted in 52.77 per cent of the establishments, partial success resulted in 17.38 per cent, while in 29.85 per cent such strikes entirely failed. In the strikes undertaken for both an increase of wages and a reduction of hours 62.49 per cent of the establishments involved succeeded, 21.08 per cent succeeded partly, while 16.43 per cent failed. The results for strikes undertaken for a reduction of hours, against a reduction of wages, and for each of the other leading causes may be seen by reference to the table.

I am sorry that I have not before me the statistics that will enable me to tell you of the loss of life directly chargeable to the strike and lockout. This would surely be appalling, as is the industrial waste indicated.

COMPULSORY ARBITRATION IMPOSSIBLE.

Mr. Gompers said that he objected to the establishment of this tribunal for the reason that it would lead to compulsory arbitration, which I might say I firmly believe to be an impossibility under our form of Government.

His statement seemed to indicate that the gentleman discovered force in this bill, and nowhere can he interpret it as other than a moral force. Later he says that the tribunal would not have a "scintilla of influence with labor unions," or words to that effect, meaning, I suppose, that they would ignore the invitations and solicitations of such a tribunal.

A MOST BENEFICENT ARM OF GOVERNMENT.

In this conclusion I differ radically. The high character of the tribunal would invite confidence from all classes of people. They might come to use its facilities slowly at first, but finally, I firmly believe, and that within a short time, it would be regarded as the most profit-

able and beneficent arm of our Government, by at least the rank and file of every organization—a Government that fears no foreign foe, but that must in the full working of the spirit of our Constitution guard the life, the liberty, and the pursuit of happiness of the least of her citizens. I am not of those who believe that all disorder is anarchy. Great disorders we have had, others we will have, and I do believe that we are the unset notes of the greatest harmony the world has known, and that we are waiting for the hand of the Master.

DO NOT WASTE YOUR OPPORTUNITIES.

Men, men, prosperity is crowding itself upon you; do not waste your opportunities.

In my own home, where the facilities for distribution have invited capital, and which city is now becoming perhaps the greatest manufacturing city of the world, I find a storm center for discord. Our police are distracted from the ordinary channels of their duty to guard the places where disorder reigns. Lockouts and strikes are the order of the day. I have before me the Washington Star, dated April 1, in which a Chicago dispatch says:

FATAL AFFRAYS.

Probably fatal affrays between union and nonunion men and vicious encounters between the rival organizations have marked a sudden revival of strike violence in Chicago. The more seriously injured of the victims were: Stanley Danosky, nonunion employee of Hammond Packing Company, fatally stabbed during labor dispute at stockyards—K. Mesisiane, union man, arrested; Frederick Drebus, pressman, employed by American Colortype Company, attacked at his house by Franklin union men—Morris Sanger arrested; John Flynn, union picket at Swift & Co.'s plant, shot by L. A. Huff, nonunion employee—will probably die; Robert W. McGinley, president of the International Pressmen's Union, beaten by members of Franklin Union, No. 4—S. Rimour Symere arrested; John Kaufman, nonunion machinist at Illinois Steel Company's plant, South Chicago, beaten, probably fatally, by six supposed union men.

Is it possible that it will still be contended that the strike is a good thing? Would you be able to make a convincing argument in support of that statement to the members of the families to which these dead bodies were carried? The wages of industrial peace is industrial prosperity. But this does not mean that any organization of men may not demand what they consider just and fair as compensation for their labor, submitting, however, such demands in regular and orderly manner to the representatives of this proposed tribunal. It is a court in which all men will stand equal. It would be as dignified a body as has ever been vested with duty in this world.

BILL IS UNDERTAKING TO CAPITALIZE MORAL FORCE.

It is an undertaking to capitalize the moral force of two thousand years of moral teaching. It is an undertaking to harvest the things of moral and ethical teaching in the particular application of these principles to the settlement of disputes between men. It would be the only court in which a moral obligation would have full standing.

I should welcome from any source intelligent constructive criticism of the bill to the end that it may have the best possible form to accomplish the purpose for which it was intended, and I sincerely hope that

it will never be in the power of the representative of either capital or labor of his own motion, as was suggested here, to "strike out all of the bill except the title."

Mr. VREELAND. You are not in favor of anything leading to compulsory arbitration?

HAVE NOT SLIGHTEST CONCEPTION OF COMPULSORY ARBITRATION.

Mr. FOSTER. I have not the slightest conception of it, although I will confess to you, Mr. Chairman, my estimate of the *compelling power* of this moral force.

Mr. VREELAND. Are not all our courts simply compulsory arbitration courts?

Mr. FOSTER. They are.

Mr. VREELAND. Each party presents what testimony he sees fit?

Mr. FOSTER. He presents his own side.

Mr. VREELAND. But our courts are a system of compulsory arbitration, as I take it.

Mr. FOSTER. Yes. It may be that I overestimate the force of public opinion so directed, but I really look upon it as having as much force as an armed body of men.

Mr. VREELAND. I see you allude to this tribunal as a court this morning?

Mr. FOSTER. Yes, sir. I called Bishop Spalding's attention to it, and he objected to it. He thinks it is a poor word because it is not exactly what we mean perhaps.

Mr. VREELAND. If we consider it as a court it would have to pay some attention to its own precedents and decisions, I assume.

Mr. FOSTER. I do not know, Mr. Chairman, that we are confined to the legal interpretation of the word "court."

Mr. VREELAND. Oh, no; we are not.

Mr. FOSTER. We use that word. There are trade courts, and there are various organizations called courts, and the use of the word here was in its most general sense, and not in any way intended to be technical.

Mr. VREELAND. Yes; but unless we are to consider arbitration as a system of give and take, of compromises taking a part from one and a part from the other, if an arbitration tribunal is to proceed along judicial lines in determining with some exactitude the rights of parties, then would not such a tribunal be obliged to pay some attention to its own precedents and make its own constructions of profits and hours of labor and all matters pertaining to an arbitrary tribunal?

Mr. FOSTER. It is logical to believe that the accumulated information that would be acquired by such an organization would have an effect upon its decisions; but unless they had too strongly pride of opinion they would not be held by precedent to the embarrassment of a just verdict.

Mr. VREELAND. My mind goes back to the same question which I raised at the last hearing. A tribunal of that kind, being obliged to proceed somewhat on judicial lines, has to adopt some uniform scale to apply to similar cases. Suppose in two factories a hundred miles apart running under the same conditions they find a strike in one, where the employers are making 15 per cent on their investment. In another one they are making 10 per cent on their investment. Would not such

a tribunal be obliged, in order to apply any unity of measurement to the disputes in question, to determine what in their opinion as a tribunal is a proper return upon the capital invested there?

Mr. FOSTER. Possibly so. That might be a part of the investigation that would be made by such a tribunal, and a source from which they would get information to determine according to right and equity the contention between two parties. I do not believe such evidence would be the chief basis of decisions of the tribunal, but considered only very exceptionally.

Mr. VREELAND. Now, the law court tries to proceed all the time with exactitude.

Mr. FOSTER. Yes.

Mr. VREELAND. They have an exact law or statute to apply as a scale. They have the testimony of witnesses, which they interpret to apply as an exact scale. Would not this tribunal be obliged to follow along the same lines, and, if so, how can an arbitration tribunal settle the income which should be paid upon capital invested in manufacturing or in transportation, or the hours of labor which the men should work? I am looking to the practical application of such a tribunal to practical questions.

ARBITRATION IS NO NOVELTY.

Mr. FOSTER. Arbitration is no novelty. It has been going on in one form or another since history began. It has lost nothing, in its general acceptance by the people, in its respectability as a mode of settling differences between men. The tribunal proposed would undoubtedly consist of very able, very intelligent, and very conscientious men. The work before them would be to adjust the differences between capital and labor according to their best judgment.

Mr. VREELAND. Right there is where the practical questions would arise, as to their best judgment. Can the judgment of any man determine, for instance, what the returns upon capital invested shall be—that is, such a judgment as will be accepted; can they determine the hours of labor or the conditions of labor in such a way that their judgment will be accepted?

Mr. FOSTER. In voluntary arbitration many commissions have made findings and conclusions that were accepted.

Mr. VREELAND. They have. I think it is generally agreed that arbitrations as a rule are a system of mutual concessions, in which they nip off of each side as a rule a proportion which will bring about a resumption of labor; but would it be your idea that a tribunal established along these lines would be such a tribunal as that of determining mutual concessions on each side?

Mr. FOSTER. I would expect that its judgments would be judgments of men, and would not always be perfect; but as near as the judgments of men are perfect, and under whose administration we are compelled to live and whose conclusions will have to govern in the affairs of nations and communities. That they would not always be perfect would probably be granted; but that they would be useful and always very nearly approximate equity and justice I think is also true.

Mr. VREELAND. Could they formulate any judgments along those lines which would be accepted? That is the question which bothers me the most.

Mr. FOSTER. Well, Mr. Chairman, that other arbitration organizations and other arbitrations have been accepted and they have been the means of settling disputes is certainly true, and why should not such a tribunal with better facilities for investigation and for accumulated information and access to it—why should they not accomplish what has been done, and more too?

Mr. VREELAND. Well, of course they may. I am merely bringing out the practical application of such a tribunal, as to along what lines it would proceed, and its chances of being accepted as a tribunal whose judgments would carry. Ordinarily voluntary arbitration is an agreement between two parties to leave to some third party the questions at issue. They agree to accept it whether it is satisfactory or not. It is made for that particular case. It is a series of concessions usually from each side. It could not be accepted as a standard to be applied universally to other disputes of the same nature, or at least would not be. I merely bring this out again because I had thought of it considerably along this line, as to the practical operations of such a tribunal operating along judicial lines. I do not care to take up any further time in questions, and I think we would be glad now to hear Bishop Spalding.

STATEMENT OF BISHOP JOHN LANCASTER SPALDING, OF PEORIA.

Bishop SPALDING. Mr. Chairman and gentlemen, I do not know that I have anything of any special worth to say to the committee. I think, however, that your remarks concerning the duty of this permanent commission, concerning the probability that it would be called upon to declare what is a legitimate profit and what are right hours of labor, need not be considered. I do not think it will ever be the duty of this tribunal or commission to declare what are legitimate profits.

NOT DUTY TO DECLARE WHAT ARE LEGITIMATE PROFITS.

It is rather to consider whether the relations between employer and employee are satisfactory on the general principles of equity and on American ideas of what the standard of living that becomes a human being is. I do not think any tribunal could undertake to determine what profits are legitimate. If the workmen are treated satisfactorily I do not see that it should matter to them whether the employer is making a great or a small profit.

Mr. VREELAND. But does it not matter?

Bishop SPALDING. I do not think the commission would have anything to do with that; and, as this bill contemplates, the commission's duties will arise only when it is appealed to by one or both parties, where there is a dispute or a strike or lockout, and its duties then will be to take up the points in contention, not confining itself rigidly to those points, but giving its chief attention to them, and to find some way by which an understanding can be brought about. I think that the mere fact that two contesting parties are brought face to face before a dispassionate tribunal tends to disarm them of their opposition and enmity toward one another, and after the investigation has been carried on with this kind, humane, and equitable purpose both of them become more ready to arrive at an understanding and agreement.

Mr. VREELAND. An understanding about what?

Bishop SPALDING. About the matters in dispute.

Mr. VREELAND. Does an interruption disturb the course of your argument?

Bishop SPALDING. Not at all.

Mr. VREELAND. We will take a manufacturer's plant, for instance. As it runs a series of years it must be running because it pays?

Bishop SPALDING. Certainly.

Mr. VREELAND. It makes, we will say, a profit of 20 per cent. That is the profit out of which the capital invested must be paid. Out of that profit the wages of the laborer must be paid. In other words, that 20 per cent which I call profit is what must be divided between all parties at interest, the employers and the employees, after paying all expenses, etc. Now, is not that the very meat of the question as to what proportion of that 20 per cent shall be divided between the employers and the employees? There is a strike; the employees say that they are not receiving a sufficient amount; that they are not being properly paid. The employers say that they are paying all that they can afford to. To what does that refer? It refers to the division of profit arising out of that plant. Then, is not that the heart of the controversy that a tribunal must consider to start with—as to what is a fair and proportionate amount to give to each of the parties as profit?

FAIR WAGES NOT DETERMINED BY AMOUNT OF PROFIT.

Bishop SPALDING. I do not think so, Mr. Chairman. I do not think a fair wage is to be determined by the amount of profit a company is making. For instance, take the soft-coal mines of the West, where they enter upon agreements from State to State, the whole State. They agree to accept a certain wage, determined considerably by the conditions of the varying mines, but not at all by the profits the mine owners are making. It is what is a fair wage for the work done, irrespective of the profits.

Mr. VREELAND. By what standards do you judge that, Bishop?

FAIR WAGE IS A LIVING WAGE.

Bishop SPALDING. It is not easy to determine a fair wage. I suppose a fair wage is what we call a living wage, and a living wage is determined by what we call the American standard of living; that a man shall have a comfortable home and shall be able to provide for the decent needs of his wife and children, shall be able to educate his children and bring them up in a way suited to Christian and American citizenship, which does not require a great deal of money.

Mr. VREELAND. Shall the employer, then, pay that amount which will fulfill those conditions regardless of the amount of profit he is making?

Bishop SPALDING. That is what ought to be aimed at, what ought to come to pass, but whether in a given case or not that would be so would rest with the commission. Of course a man ought not to be obliged to do what he can not do. In my opinion if in any business the workingman or working woman can not be paid enough to live decently, in a decent way, then that business ought to close up. That is a thing for the commission.

NO PRACTICAL DIFFICULTIES IN THE WAY OF PERMANENT TRIBUNAL.

I do not think, Mr. Chairman, that there can be any practical difficulties in the way of a permanent arbitration commission. Of course, as you say, it is largely a matter of compromise. It is largely a matter of overcoming minor points; but human life and human relations are of that kind in all spheres of action. My idea of the need of a tribunal such as this is not based on any consideration of that kind. I think the troubles existing and that have existed for some time, and that seem to grow more acute, between capital and labor are a great evil to the country in every way.

TROUBLES BETWEEN CAPITAL AND LABOR GREAT AND GROWING EVIL.

They are injurious to the common welfare. They lead to enmities and bitternesses and strifes, and I think the common agreement of all men who have paid attention to matters of this kind is that a strike is a great evil.

STRIKE IS HELL.

I would almost say about them as Mr. Sherman said about war, that the strike is hell. It is a greater evil than it appears to be. It is not merely the loss of money and the loss to owners and employers; but it is the degradation of human beings. Men who have been out on strike for weeks and months do not go back to work the same men they were when they went out. They have become demoralized; they have been in a bad mood, and have listened to bad opinions. They have been made antisocial to a certain extent; it may be they have formed habits of inebriety; it may be their children have been taught to mock and to insult human beings. Upon general grounds, the strike is bad.

STRIKE IS BAD.

It is the cause of demoralization. I always place the worth of the human being above any capital worth. It seems to me that our Government and our civilization ought to aim first at the good of human beings, and not at their enrichment—not at the enrichment of any class; and I do not see that capital and labor are getting nearer together.

I believe the anthracite coal commission did a good work, and I believe incidentally it lead to a great deal of evil.

PEOPLE MORE WILLING TO STRIKE.

It seems to me the laboring people have become more restless, more willing to strike. We have certainly seen a scandalous condition of affairs in some places in the country. Take it in Colorado. Out there it has been only a little less than civil war. In Chicago there has been a state of affairs bordering on anarchy. It has been much the same way in San Francisco. This kind of terrorism comes forth here and there not infrequently in our country. I see that a woman was assaulted yesterday in Chicago, that her face was bruised and her hand mangled. I see that a mob of 10,000 gathered to receive 300 nonunion men that came out of a factory.

DISGRACEFUL TO OUR CIVILIZATION.

Now, these things are disgraceful to our civilization. They make us less zealous and less hopeful in our endeavor to build up a higher manhood. And so it is not the interest of the laboring man or of capital alone, but the interest of the American people that is involved.

Mr. VREELAND. And what would you say to first applying the laws that are already on the statute books to such violations of the law?

CAN NOT APPLY LAW CONTRARY TO PUBLIC OPINION.

Bishop SPALDING. Mr. Chairman, you can not apply a law contrary to public opinion. If public opinion does not enforce a law you can not do it. Look at our laws controlling saloons. Look at our laws in regard to houses of prostitution. Look at all our municipal laws. They are simply an agreed-upon lie. They pass a law knowing it is going to be violated and deliberately consent to it, and the police levy blackmail on the violators of the law instead of punishing them. It will be the same way in regard to the laws against picketing and intimidation and that sort of thing.

The strike is the great weapon of the laboring people and the strike can not be successfully conducted without some kind of intimidation. I am not saying that it is right or wrong, but it is the fact that there will be intimidation. There will be a demand brought upon all who do not cooperate with the strikers. The men will be terrorized, women will be terrorized, children will be made hoodlums of, and a lawless spirit will grow up in them and no law can prevent that, no law. You can not enforce the law; that is my opinion.

CAPITAL AND LABOR HAVE INTERDEPENDENT INTERESTS.

I think capital and labor have common interests—that is, they have interdependent interests. Capital could not be well invested if it were not for labor, and labor could not subsist unless it were employed. And in our complex commercial and industrial age this is becoming more and more manifest. They are interdependent interests. It seems to me that reason and common human feeling and the principles on which our civilization rest must lead the employers and employees to come to an understanding little by little. We ought to facilitate that.

Mr. VREELAND. Do you not think that for the last year or two public opinion has been moving pretty rapidly along the lines of stopping intimidation and violence and strikes?

Bishop SPALDING. It has done little to stop it, I think. I think, for instance, in the great anthracite strike there was not anywhere near as much lawlessness as the newspapers led the public to believe. I think they were remarkably law-abiding people considering that there were 150,000 on the verge of starvation. But there was picketing, and intimidation, and calling names, and burning people in effigy. The whole population was very uncomfortable. And that will be the case in every strike, and in minor strikes it will be the case to a greater or less extent.

DO AWAY WITH STRIKES.

The thing is to do away with strikes, to work toward that end, to bring about a settlement of disputes, not appealing to the sword but

appealing to reason. If a tribunal such as is contemplated in this bill is established, it would have the sanction of the nation, the sanction of the National Congress, and it would loom up before a public opinion in a way that no State tribunal can loom up. It will attract the attention of the country in a way that no minor tribunal can attract it, and it would, little by little, if it were composed of the right men, win its way to the favor of both employers and employees. I think it would lead to there being very few cases submitted to this tribunal, but, instead, that they would agree among themselves to have collective bargainings, to settle their disputes among themselves and not let them come to a crisis.

MUST TEACH THEM.

That is the thing we must teach them. We must educate them not to appeal to any tribunal, but to agree among themselves, just as two sensible individuals will agree among themselves rather than go to court to settle their differences. It is said sometimes that lawyers live on fools. I do not know about that, but certainly foolish men go to law more than sensible men do.

I do not think there is in America any class of employers who deliberately do injustice to their men. There may be some sweat shops where the employees are made to work too hard for too little, but we did not find that in the anthracite coal region, which was supposed to be one of the worst parts of the country in that respect, and I do not think it exists—that is, a condition where the employers deliberately do their employees wrong.

Mr. VREELAND. Do you think strikes are sometimes brought about by employers; that is, do you think they are incited by the employers?

Bishop SPALDING. I do not know any instances of the kind. Of course, in a multitude of employers a case might arise. But they have the lockouts——

Mr. VREELAND. You think there is nothing done on a considerable scale on that line?

Bishop SPALDING. I do not think so. It has not come to my knowledge. I never investigated it specially, but I have no reason to think so. Do you think so?

Mr. VREELAND. I have heard it charged in newspapers sometimes that, for instance, strikes in the coal region were brought about on purpose by employers, in order to restrict the output.

Bishop SPALDING. Yes; that may have been charged.

Mr. VREELAND. And with a view to bring about a strike?

Bishop SPALDING. Yes; I heard it charged in the anthracite regions that the soft coal miners were largely responsible for that anthracite strike, because they were rival interests, and the injury done to the anthracite region by a strike would redound to the profit of the bituminous mines; but I do not believe that to be true to any extent at all—I do not believe it is true. Men are very suspicious, you know, when they think they have a wrong; where they feel that they have a grievance their suspicions are more than normally alert. I do not think that that sort of thing prevails greatly in our country.

WE HAVE GREAT GOOD WILL FOR LABORERS.

I really think that we are disposed as a people to be fair minded, and I think we have great good will, and I think our good will is

applied more emphatically to the laborers, to the poor and hard pressed, than to the rich, and I think that men who employ labor have the welfare of their employees at heart as a rule, and I think that a man would feel disgraced and ashamed to go out among enlightened people if he were known to be a grinder of labor, a man living on the blood of women working in sweat shops. No man who attaches any importance to the good opinion of his fellow-men would like to be known to do that sort of thing, and I think that our laborers, that our American laborers, are very free from anarchist virus. I think they are only in a very minor way inoculated with socialism.

MUCH AGITATION AND UNREST DUE TO SOCIALISM.

I think much of the agitation and much of the unrest is due to socialistic ideas brought here from abroad, and this not being a natural soil for them they do not flourish here. But I believe that if the warfare between capital and labor is allowed to become more intense and these disputes to break out into strikes more and more and into lawlessness socialism will grow up and gain power and that public opinion will turn more and more away from the labor union.

During the anthracite coal strike, when the commission was in Scranton, Mr. Mitchell said emphatically, in reply to a question I asked him as to whether if public opinion turned from the labor union he thought they could thrive, that in his opinion they would disintegrate if public opinion resolutely turned against them.

PUBLIC OPINION.

It is not easy to concentrate public opinion. Public opinion exists in a sort of floating, gaseous, unformed state, as a rule, because men feel that upon many questions they have not sufficient data to come to a positive view. Public opinion on labor and capital would be concentrated, at least there would be a force brought to bear to concentrate it, by the action of such a tribunal of men, able men, not specialists, but men of cultivated minds, open, fair, flexible, reasonable, and who more and more would familiarize themselves with these conditions. It seems to me that their opinions would gain weight with the people. They would publish their opinions under the conditions contemplated in the bill, and it would be a school in political economy for the whole people, a most important school, I think, for our American civilization.

SEES NO REAL OBJECTION TO BILL.

I do not see that there can be any real objection to this bill. It is not compulsory arbitration. I suppose compulsory arbitration has very few advocates in this country. Whether compulsory arbitration would be contrary to the constitution or not I could not say, there may be a difference of opinion about that, but it is absurd on its face; you can not compel men to arbitrate. You may go through the forms of it, but you leave it just where it was before. The men will not go back to work, if they have been compelled to arbitrate and all the questions have been decided against them. A number of miners said to me in the anthracite region, "If they send the United

States Army here they could not make us go back to work; if they sent the German army here they could not make us go back to work." And that is very true. I do not think compulsory arbitration would suit so complex an industrial condition as we have. And it is on its face, as I have said, impractical and a contradiction in terms.

COMPULSORY INVESTIGATION.

But a compulsory investigation is a different thing. By it public opinion may be enlightened and the public is interested in these great enterprises, and in a minor way in every industrial enterprise. This seems to me the most desirable thing to be accomplished in the conditions of capital and labor to-day in our country, and I see nothing so likely to do this work as the passage of some such bill as this. Of course people may differ as to the minor points, and the wording may have to be changed here and there.

Mr. VREELAND. Do you think a permanent commission, Bishop, is better than one appointed for each case?

PERMANENT FAR BETTER THAN TEMPORARY COMMISSIONS.

Bishop SPALDING. Far better, Mr. Chairman. I think, in the first place, the permanent commission would have this advantage: It would be a body of trained men, men familiar with the conditions, whereas you take even educated and strong-minded men and if you have to appoint them specially for each case as it comes up they will have to take a long time in the work before they get an insight into what they are doing. I do not think it would be easy to find the right kind of men who would be willing to go on these commissions that would last for weeks or months, whereas if it is a permanent commission I believe the best kind of men could be procured.

Of course good salaries will have to be paid. So far as the salaries are concerned, I think we should not try to save money in that way for a moment. The saving in that direction would be so infinitesimal compared to the importance of having the best possible men that it should not be considered. I believe that men who do important work ought to be paid in a large way, certainly where the Government is concerned—not extravagantly, but what is considered decent and just.

MONEY CONSIDERATION OF COST NOT IMPORTANT.

Mr. VREELAND. You do not consider the money consideration important?

Bishop SPALDING. No.

Mr. VREELAND. There would be this about it. It would go back again to the question I raised a moment ago as to whether such a tribunal could formulate lines which will be accepted by the public as satisfactory, so that after they had made a decision in a few strikes they would continue to find employment and not have to go out of business. Of course, if their work was unsatisfactory, and they were no longer called in to settle strikes, the commission would be useless, whereas a new commission in each case would not be open to that objection. It would be more on the lines of voluntary arbitration.

Bishop SPALDING. Mr. Chairman, suppose this commission were

called upon only once or twice, and then, after that, not at all. Would not the existence of that commission be justified from the fact that labor and capital had agreed to come to an understanding; would it not be justified from the fact that that had been the effect?

Mr. VREELAND. Unless the strikes and lockouts went on just the the same.

Bishop SPALDING. If they did go on just the same, one or the other party would appeal to the commission, I think, and then that party submitting its case, and the other party being invited to submit its case, if the other party refused to submit the public would get authentic information of exactly what occurred. The trouble is we do not know what is true or false. Who can say what has been going on in the Russian-Japanese war? We do not know. If you leave it to the newspapers you do not know. If we have one body of men appointed simply to give us the facts, then we say, "Here is what they have said. They are not going to lie. They are not partisans. This is the truth." We would have the facts about that case, and the same way about another case, and little by little the whole people will get an inside view into the conditions of industrialism in this country such as we have not now.

I did not know much about it until I was appointed on that commission. I had read political economy and a whole lot of things, but you can not get the exact facts without great trouble unless you have some source that will give them to you, and this tribunal would be that source, in my opinion, and that is the concern of the American people that they should know about these things, and these cases which lead to trouble, to strikes, and lockouts. If there is any considerable portion of the workmen in America, or even a few, living like animals, and forced to live that way on account of the wages they receive, I think the people ought to know it. Don't you think so?

Mr. VREELAND. It is very desirable to have accurate information always. Bishop, suppose you and Mr. Foster and Mr. Hughes were appointed an arbitration tribunal, and there were a factory here that had ordered a reduction of 10 per cent in wages of the men, and you were to determine whether it is proper or not, what information would you seek to get, what lines would you follow?

Bishop SPALDING. You say there is a reduction of 10 per cent ordered?

Mr. VREELAND. Yes; and the men appeal to you as a tribunal.

Bishop SPALDING. And the men will not accept it, but go out on strike?

Mr. VREELAND. Yes.

Bishop SPALDING. First I would get what information I could from the two parties.

Mr. VREELAND. Information about what?

Bishop SPALDING. I would ask these operators why they were compelled to reduce the wages 10 per cent. I would get all the information that they could give me or would give me. Then, from the employees, I would find out why they were not willing to accept a reduction of 10 per cent, their reasons for not being willing to accept a reduction, and you would get a considerable degree of information in that way, and then one thing would lead to another. It would be the same way with the employers. What they would say would lead us to a further investigation, and so, little by little, we would get at the bottom of it.

Mr. VREELAND. I am not clear just what the information would be that you are going to get. You say you would ask the men why they would not accept the reduction?

Bishop SPALDING. I would ask the operators why they felt they ought to reduce the wages 10 per cent.

Mr. VREELAND. What answer would justify them in saying that they had to reduce the wages 10 per cent?

Bishop SPALDING. They might say that their prices had changed, that the raw material cost more, and the prices they could get for the manufactured article were less, and there is the question of competition, and so forth.

Mr. HUGHES. That the men were becoming expert and were earning more than they were entitled to?

Bishop SPALDING. There are many reasons, of course.

Mr. CONNER. Suppose it should be disclosed that the factory would run at a loss if they continued to pay the same wages. Would that consideration appeal to you?

WILL NOT RUN AT A LOSS.

Bishop SPALDING. Yes. Of course, no man will long run his business at a loss. It would mean bankruptcy in the course of time.

Mr. VREELAND. Suppose your investigation discloses the fact that the plant is earning 6 per cent on its investment, and they claim that is not sufficient return. Would that be a matter of importance?

Bishop SPALDING. Not to me; the percentage of profit, even if they were making 60 per cent, would not be a matter of importance to me.

Mr. VREELAND. If they were making nothing, would that be a matter of importance?

Bishop SPALDING. If they were losing, or—yes, if they were making nothing.

Mr. VREELAND. Suppose they were only making 3 per cent?

Bishop SPALDING. I think if they are making a very small profit that that would be a reason for reducing the wage, unless the wage were already at a point below which it would not be possible to go and enable the men to live in a human way.

Mr. HUGHES. You would believe in having the men bear a fair proportion of the loss so long as it did not reduce them below the American standard of living?

Bishop SPALDING. Yes, sir.

Mr. HUGHES. But, as you said before, you do not believe that any business should be carried on if it is necessary, in order to carry it on, that the employees should be paid so small a wage that it will not enable them to live according to the American standard of living?

Bishop SPALDING. That is my view in such cases where there is no hope of improvement in such conditions. I lived in New York for a few years, and I knew girls there who were really starving and who were working all the time, too. I think that sort of thing ought to be interfered with by the police or something done to stop it.

Mr. VREELAND. Then, you think the tribunal can not escape considering the question of profits that are made and determining whether one party in the division of profits is getting enough or not?

COMMISSION WOULD NOT DETERMINE BEYOND LIVING WAGE.

Bishop SPALDING. Unless we have what we call a living wage; the commission would not determine beyond that.

Mr. VREELAND. You think a man is entitled to a living wage if he can get it; but suppose the mill shuts down, what becomes of him then?

Bishop SPALDING. He must seek work somewhere else.

Mr. VREELAND. Yes; but then what becomes of that mill or factory?

Mr. HUGHES. The capital seeks employment in more lucrative channels.

RIGHT TO CONDUCT BUSINESS.

Bishop SPALDING. The mill will not shut down unless it is not making money. That brings up another question to my mind. A great deal has been said—and something has been said in regard to it before this committee—that an owner, an employer, an operator, has a right to conduct his business as he pleases; that property is sacred, and it is not the Government's business, and it is nobody else's business, what a capitalist does in his business.

Now, I think that is a false view. I believe in the sacredness of property as much as anybody does, but I do not believe in the right of an unrestricted use of property. I think the use that men make of property is restricted and has to be restricted in many ways, and I think where you employ a large number of men in certain lines of work, when they have accustomed themselves to it, they do not know any other kind of work. It is especially so with the coal miner. When he has worked four or five or six or eight years in the coal mine he is unfit to do any other kind of work. He has acquired a kind of equity in that property and has become a part of the business, and I do not know that you have the right to turn those men out and bring in other men without saying a word about it.

That is the view that union men take of it, in my opinion, and that is the reason they resent lockouts and attempts to substitute other laborers for them. A man has given his life to that particular work by working in the mines six or eight years; that is, he is unfit for any other work. I do not know the exact number of years, but the evidence could be brought forth to show that a man that has worked many years in the mines is practically unfit for anything else. If you turn him out you condemn him to misery and condemn his family to crime and vice, probably. He feels he has an equity in the business, and that is what the miners maintained when they said, "We will picket, we will intimidate, without permitting violence, because we are protecting our lives, our means of living, the means of keeping our families from starvation, and if you put us out of this we can do nothing else."

OLD IDEA THAT MAN HAS RIGHT TO WORK.

The conditions have changed. The old idea was that a man has a right to work. He has a right to work, but has he the right to work if he uses it so as to throw other men out of work and prevent them from doing anything, if they have become inured to this and are incapable of doing anything else? That is a doubtful question in my mind.

That might be elucidated by the commission. I feel confident that any President of the United States would appoint a commission like this from nonpartisan men, and we have a great many men capable of doing this kind of work, if we pick them out—a great many, and we need them, too.

Mr. FURUSETH. There are some questions that I would like to ask the reverend bishop.

Bishop SPALDING. All right, sir.

Mr. FURUSETH. Are not trade disputes indicative of an effort on the part of the wage-earner to realize, practically to materialize, some higher standard of life which he has intellectually and morally evolved?

Bishop SPALDING. I think so. That is, taking it in the large sense. I agree with that question, I answer it affirmatively.

Mr. VREELAND. He wants more money.

Mr. FURUSETH. Money is never aimed at for itself; it is a means to something else.

In the sympathetic strike is he not endeavoring to put into practical application the instruction of the Master, "To bear each other's burdens," "To be thy brother's keeper?"

NOT BELIEVER IN SYMPATHETIC STRIKE.

Bishop SPALDING. I will say that I am not a believer in the sympathetic strike at all. I think the sympathetic strike is a misplaced sympathy. It works more harm than it does good. Experience is that the sympathetic has generally failed to accomplish anything for the laboring man, and I think that the great weight of opinion among labor leaders is in opposition to the sympathetic strike. It is a foolish sympathy. Sympathy may be a dangerous thing to deal in, Mr. Chairman.

Mr. FURUSETH. Are strikes, if they be an indication of growth toward higher ideals, something to be suppressed?

Bishop SPALDING. Well, that is the question of war. I suppose we come to higher things through all sorts of battles and contentions. Strikes are the causes of innumerable evils and we ought to do away as far as possible with the causes.

I think that the growth toward the higher ideals could be accomplished in other ways; I think that if you teach men to trust one another, to feel kindly toward one another, to cooperate with one another, to cherish a conciliatory disposition toward one another, you bring them much more rapidly forward than by teaching them to fight one another, and a strike is a bitter fight.

Mr. FURUSETH. I was looking at it from the point of view as an indication of something else underlying, as an indication of that which underlies the strike.

Bishop SPALDING. I believe that most efforts of human beings——

Mr. FURUSETH. As a force that may be for good or for evil; in other words, that it depends purely upon its use, that in itself it is only a force.

LABOR UNIONS COULD HAVE ACCOMPLISHED MORE WITHOUT STRIKES.

Bishop SPALDING. I think that labor unions have accomplished a great good for the world, and I think the labor unions could have accomplished nothing without the strikes.

Mr. FURUSETH. That answers my question.

Bishop SPALDING. But the effort and the tendency ought to be to outgrow that condition. I know that strikes are a great evil, but so is a battle——

Mr. HUGHES. A necessary evil?

Bishop SPALDING. No; I would not say a necessary evil. They have been necessary at times, but they would not be necessary if men were wiser and more kindly and conciliatory.

Mr. FURUSETH. In other words, Bishop, men have the right to strike?

Bishop SPALDING. I would not deny the right to strike.

Mr. FURUSETH. You would have the right to strike kept intact, but you would minimize as much as possible the interfering with fundamental rights——

Bishop SPALDING. To deny the right to strike would be practically to deny the right to organize; there is no doubt about that; it would practically amount to that; but the strike nearly always is accompanied by things that a wise and good man can not approve of. Nearly always crimes accompany strikes. They ought to minimize those things and strike as little as possible; that is it, they ought to settle things without strikes. The loss to the laborers is as great or greater than it is to the capitalists.

The labor leaders claim that 50 per cent of the strikes have been won. I do not know whether that is so or not, but even if it is so the employers, while they lose money, do not lose as much as the strikers. The strikers lose their morality, their sobriety, their virtues. They suffer in the vital things; the others suffer in the accidental things. That is the advantage the rich have over the poor in all things.

Mr. FURUSETH. The difficulty, then, is in arriving at these higher ideals of life, and better conditions of life; and to reach them we are compelled to go through sufferings?

NOT COMPELLED TO GO THROUGH CRIME.

Bishop SPALDING. Yes; that is the law of nature and of God, it seems. But we are not compelled to go through crime.

Mr. FURUSETH. Standing for something new—the growth of new ideals, the assimilation into the mass of the higher moral principles—should it not be permitted to grow freely, would not such tribunal reflect the more general concept, and is not the inherent conservatism of society a sufficient check upon that which society looks upon as dangerous because untried?

Bishop SPALDING. It seems to me that that is expressed in a somewhat confused way. You mean to say that the natural tendency is toward higher things, and if left alone society will evolve in that direction?

Mr. FURUSETH. Yes; and this tribunal is an interference with natural evolution, that society's business is to keep the peace purely?

IT CAN NOT KEEP THE PEACE.

Bishop SPALDING. It can not keep the peace, it does not keep it wherever these strikes exist. Society's particular business is to prevent crime and to prevent men doing wrong to one another, to make

the pursuit of life, liberty, and happiness more and more easy and successful.

Now, as I look upon it, these continuous strikes not only hurt our business affairs, our financial prospects, but they tend to weaken our faith in our Government, in the rule of the people by the people, and to make men believe that nothing will be right until there is a radical revolution, until private property ceases to exist, until the State owns everything, which I do not believe in at all.

Mr. FURUSETH. I am not a believer in that.

Bishop SPALDING. I am not.

Mr. FURUSETH. I have a few more questions here: Is it well that the moral concepts which underlie such efforts should in any way be hindered, guided, or otherwise interfered with?

Bishop SPALDING. If you define those moral concepts, and if they are the moral concepts upon which we agree, I would say that this tribunal, far from hindering that, would help their development, would be an educational force.

Mr. FURUSETH. In the question arising about the division of profits from industry, what rules are to govern; the rules laid down in the decalogue or the ordinary rules of business?

Bishop SPALDING. I suppose the ordinary rules of business are in theory founded upon the decalogue, founded upon honesty. Do you not think so?

Mr. FURUSETH. I might be inclined to dispute that.

Bishop SPALDING. I like to suppose that, anyway.

Mr. FURUSETH. In the ordinary business rules, is capital to have its share first or labor have its share first? In either case, how much is going to each?

Bishop SPALDING. I think I have answered that in reply to a question from the chairman.

Mr. FURUSETH. Very well, then, I will ask my next question. If the rules of the decalogue—what are they, how are they to be construed?

Bishop SPALDING. Well, the rules of the decalogue, I suppose, mean "Thou shall not steal." Is that it?

The CHAIRMAN. It is to be supposed that all the members of the committee are familiar with that.

Mr. FURUSETH. And "Thou shalt not be stolen from" is a part of it.

Bishop SPALDING. If nobody steals nobody will be stolen from.

CAN PUBLIC OPINION COMPEL OBEDIENCE?

Mr. FURUSETH. Do you believe that public opinion concentrated upon any party who shall refuse to grant jurisdiction, or having granted it shall refuse to abide by the award, will be strong enough to compel obedience?

Bishop SPALDING. Well, I think it will grow to be strong enough. I do not say that it will compel obedience in every instance, or the first instances; but I think the more public opinion is brought to bear upon any kind of human interest the more will that human interest conform itself to public opinion. I think that the efficacy of law comes from the support of public opinion. Law is simply the declaration of men's beliefs as to what is right and just and well and profitable, and where the public opinion is lacking the law lacks vitality, and where the public opinion concentrates itself sufficiently and it becomes

sufficiently strong it enforces the law, and the more enlightened a people is the more they should trust themselves to public opinion. That is the idea of the American Government.

Mr. FURUSETH. Do you base this belief upon the conviction that any force inherent in public opinion is a moral force which, if concentrated, would be irresistible?

Bishop SPALDING. Yes; I have said that.

Mr. FURUSETH. Do you believe that a tribunal as made up as provided in this bill could concentrate or focus the moral force existing in the community in the way contemplated in this bill?

Bishop SPALDING. I think so; not all at once, but little by little.

Mr. FURUSETH. Is not this making the tribunal the judge of religion as well as of morals?

RELIGION AND MORALS INSEPARABLE.

Bishop SPALDING. I contend that religion and morals are inseparable, and everybody who passes on questions of right and wrong is passing upon a question of religion as well as morality; there is no doubt of that in my mind. I know there are some who deny that.

Mr. FURUSETH. Do you believe that it would be safe to vest the power which you claim exists, and which you claim this tribunal could focus, in the hands of a committee of men, who, having families, might be influenced through their love of an apprehension for them?

Bishop SPALDING. I have the greatest faith in honest, intelligent, strong men, and I believe it is safe to trust anything to a body of six or seven men rightly composed. I believe it would be better to trust this power to them than to the human race. If you can not trust seven men rightly chosen, you can not trust the human race.

Mr. FURUSETH. Even if influenced in that particular way?

Bishop SPALDING. You must take in every influence. They won't be influenced to do wrong in any way, in my opinion. Of course the same objection you suggest applies to judges and Senators and Congressmen and to every human being; but, in the end, after all, the sense of justice rises superior in the better sort of men.

Mr. FOSTER. Mr. Chairman, Bishop Spalding referred without explanation to compulsory investigation and left it at that. I think it well to bring out from the bishop his concept, which of course would include "after agreement of the parties." We have some friends here that are looking for any statements not made quite clear, complaining that we have some compulsory elements in the bill.

Bishop SPALDING. The bill does contemplate compulsory arbitration. What I would say is this: Suppose in the anthracite coal strike neither party had appealed to the President; that they had both been willing to stay there and fight it out. In the meantime the people were freezing in Philadelphia and New York and Washington. There would have been mobs. Ought they to have been let alone there, neither appealing to any tribunal? Ought they to have reduced several million of people to the condition of freezing and suffering because of the lack of coal?

IN BITTER STRIKES ONE PARTY WILL ALWAYS APPEAL.

Bishop SPALDING. I suppose it is not necessary to modify the bill, perhaps, because in these bitter strikes there will always be one party or

the other which will appeal. According to this bill they could not go there at all if not invited by one party or the other.

Mr. FOSTER. They would have to be invited by both parties.

Bishop SPALDING. The arbitration board in Massachusetts has the right to go in without being appealed to by either party. It settled that great railroad strike without being appealed to.

Mr. FOSTER. That was a commission of investigation?

Bishop SPALDING. Yes.

SATISFIED WITH BILL.

I am satisfied that with the bill as it is, without putting that other clause in (although I believe under the proper conditions compulsory investigation is a good thing) those conditions would rarely arise; I think that one or the other party would appeal to a board like this.

Mr. HUGHES, of New Jersey. You do not think that intimidation, this mild form of coercion—not referring now to overt acts of lawlessness—is confined peculiarly to labor people?

Bishop SPALDING. Oh, no; I think there is strong pressure brought upon all sorts of people occasionally.

Mr. HUGHES, of New Jersey. For instance, a member of Congress gets out of line with his constituents.

Bishop SPALDING. Yes.

Mr. HUGHES, of New Jersey. He is perhaps afraid of the capitalists.

Bishop SPALDING. Some few, not many, of them, in my opinion. We are all human, of course, and we are subject to all sorts of influences.

I heard Mr. Mitchell say often in the investigation that he was opposed to all kinds of intimidation and terrorism, and that he continually counseled his men not to go into that sort of thing.

NO NEED OF INTIMIDATION.

There is no need of intimidation unless the tramps of the country are brought in to take the place of the strikers. The professional strike breaker is the man they have the great hatred against. Do you represent the labor unions?

Mr. HUGHES, of New Jersey. No; I am a member of Congress.

Bishop SPALDING. Oh, excuse me.

Well, as far as I know, the bitterness of the union men is against what they call the professional strike breaker. It seems that there are a lot of men ready to jump in and take the place of strikers, and naturally the strikers feel bitter against that class of men.

Mr. HUGHES, of New Jersey. That is natural—yes.

Bishop SPALDING. I suppose they exaggerate that, too.

Mr. FURUSETH. When you speak of intimidation what do you really mean? Would it be intimidation, for instance, if I were to go to see a man who was about to go to work in a shop and say: "John, we have left this shop because the employer has been unwilling to deal fairly with us as we see it, and we ask you not to go into this shop, and we say to you, in addition, that if you do go into this shop we will not speak to you again, and will not associate with you in the future;" do you consider that intimidation or unjustifiable?

Bishop SPALDING. No; I do not consider that intimidation. You are not bound to speak to a man or associate with him, and you have

a right to advise a man. As a rule, a man does not want to be advised; he would rather be insulted.

Mr. HUGHES, of New Jersey. I suppose you are aware of the fact that the courts almost uniformly have, upon application, held that even that sort of conduct is unlawful and is intimidation.

Bishop SPALDING. I do not think so.

Mr. HUGHES, of New Jersey. I can give you some information on that point.

Bishop SPALDING. The courts may have decided that; but still my opinion is that that is not intimidation.

Mr. CONNER. Is not social ostracism intimidation?

Bishop SPALDING. For instance, no man is obliged to associate with another, and you need not invite a man to your table, or introduce him to your family, or go into any social gathering with him if you do not wish to. And in the same way you need not buy goods of a man.

Mr. HUGHES, of New Jersey. That is what I was going to ask you, whether that sort of intimidation is not prevalent throughout the country?

Bishop SPALDING. Certainly. There are many people, for instance, who say, "I will not have anything to do with you because you are a saloon keeper." Those people are not considered criminal for doing that.

Mr. HUGHES, of New Jersey. Or because a man is a Democrat, or a Republican, or a socialist, or an anarchist——

Bishop SPALDING. Yes; or because you are a colored man.

Mr. VREELAND. Mr. McDermott, would you like to be heard on your bill?

Mr. MCDERMOTT. I would like to say two or three words.

Mr. VREELAND. As far as I am familiar with the views of the committee, it is that in the matter of an arbitration commission like this, or the one proposed in your bill, we want to proceed carefully, and I think it has been the desire of the committee to have men appear before them and put their statements into print and have it go into the newspapers, and in this way feel their way to conclusions.

STATEMENT OF HON. ALLAN L. M'DERMOTT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY.

Mr. CHAIRMAN. I will say only a few words. I want to present in extenso my views after reading the statements that had been made, including the bishop's statement.

This committee has already passed on my bill.

Mr. VREELAND. A committee of a former House?

Mr. MCDERMOTT. Practically the present committee. When the strike was ordered by Mr. Mitchell——

Mr. HUGHES, of New Jersey. This is almost entirely a new committee.

Mr. FURUSETH. It would be better to say that the miners voted to strike.

Mr. MCDERMOTT. Well, it was practically ordered by him, I will say, when the miners voted to strike. At that time the different concerns that I was connected with, one particularly being in the hands of receivers under the United States court, and I, being the receiver, was prepared to use a good many thousand tons of coal, this particular

concern alone needing 75,000 or 80,000 tons. The Grand Army of the Republic was expected in Washington in the following October, and it was quite evident that it was necessary to light the city and run the railways here if we were going to receive them. I made up my mind that the strike in the anthracite regions was going to affect the soft-coal regions, that there would be practically a coal famine in the city of Washington, and I wanted, if possible, to avoid it. I do not pretend that I was hunting after any problem in political economy; I was simply looking for the practical question.

I have had some experience with labor unions. I have been a member of one all my life. I have been in strikes, have ordered them, and settled them. Strikes are of peculiar kinds. In a strike, for instance, among the printers in the city of Washington, you could not settle it by any board of arbitration in the world.

Mr. VREELAND. Do you belong to the printers' union?

Mr. MCDERMOTT. Yes.

Mr. VREELAND. You have also been a large employer of labor?

Mr. MCDERMOTT. Yes; and I am now directly and indirectly an employer of two or three thousand men. The ordinary strike will settle itself; the men will get together after a while. If you have a standing board of arbitration—that is, a bureau of arbitration—the adjustment of the differences between capital and labor by that bureau will gradually grow into disrepute. That has been the experience, in my judgment, of every standing bureau of arbitration. In the State of New Jersey it has gone to such an extent that in his last annual message the governor recommended that the law be repealed—that the bureau be abolished.

In any board of arbitration where men are to receive large salaries, salaries say of $10,000 a year, the members will necessarily be appointed under political pressure. They will be appointed because they are fair-minded men, but they will have no particular knowledge of any particular thing as a body.

NO POWER TO SETTLE STRIKES.

There is no power under our Constitution to vest them with the power necessary to settle a strike. The interstate commerce proposition does not reach that far.

M'DERMOTT BILL.

I introduced this bill two years ago with this idea in mind. If the President of the United States, being informed that there was a lock-out imminent, or a strike, he would appoint, as he did subsequently, a commission of gentlemen who would receive immediately, because of their high standing, intelligence, and positions in the community, the confidence of the people, and they should examine the situation and report to the President, and the President should report back to the public, or give it to the public, that would settle the strike. You could not settle a strike of carpenters in Washington that way, or a strike of printers, as I illustrated. They would say, "Mind your own business."

Mr. VREELAND. May I interrupt you a moment?

Mr. MCDERMOTT. Certainly.

PERMANENT TRIBUNAL COULD INVESTIGATE BEFORE STRIKE OR LOCKOUT.

Mr. VREELAND. It has been urged here that the greatest benefit arising from a permanent tribunal would be the fact that such a tribunal existed all the time where complaints from one side or the other could be sent and investigated before a strike or lockout occurred; that one of the greatest benefits would be that it would very likely prevent strikes and lockouts. If you would only have a temporary tribunal, such as you suggest, how would you meet that?

Mr. MCDERMOTT. My judgment is that if that is true, if you have a standing board of arbitrators to whom are referable matters of difference which are imminent, let us see what the result will be. You will have every little question in this country that in any wise might effect railroad transportation, for instance, sent to that commission. They would be kept very, very busy; they would have to decide every little dispute that came up.

Bishop SPALDING. They have the privilege of not accepting anything; they are to determine whether the case is of sufficient importance.

Mr. MCDERMOTT. If they determine it is of sufficient importance, yes, then they must settle it. If they decide that the case referred to them is not of sufficient importance for their action, then the cry will go up from one side or the other, "What is this board for?"

After that board has decided a dozen cases, in my judgment, it will have lost all its standing in this country. There is no body in this country that is not subject to political assaults. Even the Supreme Court of the United States, in my judgment the greatest body on the face of the earth, is subject to political assaults. A body of the kind proposed would be subject to criticism. It would grow into a non-respected body, in my judgment, if it was a continuous body.

Again, if a body of that kind is necessary, let it be a body of the State. I do not believe the United States, under the Constitution, was ever organized for the purpose of meddling in every labor dispute that happens to arise. My own judgment is that the right way to do is to let labor and capital alone as far as we can, and not meddle in human affairs with legislation unless it is necessary to. Don't say that we shall have a board at every corner. You have bureaus enough now in the city of Washington. You have a system of government by bureaus, and in my judgment it is a bad system. I say, let a State that wants a board of arbitration create it, and let the United States interfere only when the question is so great that it reaches somewhat of the importance of the coal strike in Pennsylvania. As the Bishop has very well said, the question there involved the possible freezing of the people of this country.

Bishop SPALDING. Do you believe in passing laws for public sanitation, and enforcing them?

Mr. MCDERMOTT. Yes; that is a State matter.

LAWS FOR MORAL SANITATION IMPORTANT.

Bishop SPALDING. Is it not as important to pass laws for moral sanitation?

Mr. MCDERMOTT. Yes.

Bishop SPALDING. The objection to State boards of arbitration is

that they are minor affairs, and that they would not have the weight at all of a national court.

Mr. McDERMOTT. They should have charge of everything, so far as domestic procedure is concerned; so far as the domestic policy of the States is concerned.

Bishop SPALDING. I am a States' rights man.

Mr. McDERMOTT. I am a States' rights man, too, because the Constitution is there. If I was going to frame the Constitution I am not sure but what I would wipe out some State lines.

Mr. HUGHES. Would there not come a situation in a railroad strike where two or three or more States would be involved?

Mr. McDERMOTT. Then you would have a case where the President of the United States should do this: He should ascertain and tell the people the truth of the conditions there. What would be the result? You say that President Baer, of the Reading Railroad, and the others were forced by public opinion to arbitrate—that is, so far as they did arbitrate. They submitted their case to you and they would have been very foolish not to have done so. They probably could not have had a tribunal that commanded the respect of the people of this country as that coal strike commission commanded it, Bishop, and if they had refused, it would have lead to a denunciation of the railroads and coal companies. They did not care for anything of that kind. A man chosen as president of a big corporation is not going to be moved by denunciations. He is there to represent the stockholders. What they were afraid of was this: That public sentiment would take away their corporate rights in the State of Pennsylvania.

Bishop SPALDING. They own the State of Pennsylvania; there would be no danger of that at all.

Mr. McDERMOTT. But they could reach a point where their rights might be taken away.

Mr. HUGHES, of New Jersey. I think the Bishop has that correct.

Mr. McDERMOTT. Then the people could change that ownership. They could have taken away the railroads' rights in the State of New Jersey. There was a petition prepared to the governor of New Jersey to call a session of the legislature for the purpose of legislating along such lines. I can draft a bill which, if you put on the statute books, will wipe out the value of the Reading Railroad in New Jersey.

Now, if you have a commission appointed in the manner I suggest, which ascertains the facts, and those facts are given out and show that capital is unjustly oppressing labor—in other words, that the facts show, in the judgment of the public, that labor is not getting its fair share of what is taken from the earth—in my judgment capital will give way. If you have a permanent bureau, I am a little afraid that its political environment will govern it. You can not have any such commission as settled the coal strike. The President of the United States could not get such a commission as that as a permanent commission.

Bishop SPALDING. I do not see why not.

Mr. FOSTER. I do not see why not.

Mr. McDERMOTT. Because of the character of the men. You could not get the mentality of that commission in a bureau in the city of Washington.

Bishop SPALDING. It does not require great mentality, but, rather, honesty and fearlessness.

Mr. MCDERMOTT. But the trouble is that you could not get the kind of men you need to take those jobs permanently.

Bishop SPALDING. It is not a pleasant job.

Mr. MCDERMOTT. I do not believe a permanent body, with the political environment it would have here in Washington, could be a success. I do not mean to say it would be done; but when some great question arose it is possible to conceive that those close to the Government or those opposed to the Government would try to move that permanent commission. What would that commission do in a Presidential campaign? It might be a little above or a great deal above the average of men, but the environment of the political campaign would affect that permanent bureau of the United States Government.

It was with that idea that I drew this bill. I did it for a purpose selfish; I wanted the coal strike settled. The committee unanimously reported in favor of my bill, and Speaker Henderson at that time gave it the right of way on the Calendar. It was called up shortly afterwards and was reported, but objection was made by Mr. Burke, of Pennsylvania, who misapprehended the bill. He thought it was interfering with the rights of employers, as he said. He afterwards withdrew his objection, but it was too late, and it lost its place on the Calendar, and there it is.

Bishop SPALDING. That is a bill for compulsory arbitration?

WHAT M'DERMOTT BILL PROVIDES.

Mr. MCDERMOTT. No; my bill provides that the President, being informed that a lockout is imminent, shall appoint a commission, and that commission shall go without invitation from anybody to the place of the strike and examine into the economic conditions, the manner of living, the wages, and so forth, of the men employed and report the truth.

Bishop SPALDING. Suppose the laborers and employers will not give them any information?

Mr. MCDERMOTT. They have the right through the process of a court then to summon and examine witnesses. Of course, if you have any commission you must give them the right to summon witnesses. A commission that can not order the production of papers and witnesses might as well go out of existence. We have just had a decision in the Federal courts on that question.

Mr. HUGHES, of New Jersey. Mr. Foster's bill contemplates issuing process only after each of the parties have given jurisdiction by consenting.

Mr. MCDERMOTT. I do not see anything dangerous about issuing processes. You can issue it in the meanest police court in the District of Columbia and it will be effective.

Then if the process is issued and disrespected my idea is to apply to the circuit courts. If you are not to have process unless the parties agree, how far will your commission go? Either party will stop it.

Bishop SPALDING. One party has appealed to them and they publish what they know and the grounds for the refusal of the other parties.

Mr. MCDERMOTT. With the great number of cases that would be presented to this commission if it were a permanent board, what could

this commission present that either side could not present in the press?

Bishop SPALDING. The important point would be the certainty of the public that the facts as given out by the commission would be the truth.

Mr. MCDERMOTT. The commission will say "We went there to settle the strike, and A says this and B says so and so." In the forum of public opinion it may be that B will stand convicted of telling an untruth.

Bishop SPALDING. And the fact that they have refused to submit would discredit them with the public.

Mr. MCDERMOTT. Without any question, except this: There are a large number of people in this world—a growing number—who believe that the Government ought to mind its own business, and that it should not intrude in these strikes. The general public, however, would say this: One side is willing to submit to publicity; that is the real point; but the other side will not submit to publicity; therefore it is a fair inference that they won't submit because their case is against them.

HE WHO CONCEALS IS AFRAID.

He who conceals is afraid. That would be the maxim they would apply. I do not see that your commission would have accomplished anything in this coal strike. Mr. Baer would have said, "Very happy to meet you; but I do not care to have any further intercourse with you." They would have refused, and then you would have had what?

You have had statements from Mr. Mitchell, and they would have been received with very considerable credit, because—I speak of him in relation to his position—he has the confidence, in my judgment, of the people of this country. I am not personally acquainted with him, but I must say that I have formed a considerable admiration for his judgment. He would have presented his case. He did do it, but it did not have any effect. What he did in that case would have been this. The railroads claimed that there was not sufficient profit from the mines to pay anything on the invested capital—that which capital is entitled to under the laws of average. I could take their plant and their capitalization and in a little while have figured up what would be a fair return.

Bishop SPALDING. It is not as easy as you think. They are mixed up with the carrying roads, and it is a most involved and complex situation, as we discovered.

Mr. MCDERMOTT. That may be. I was once called upon to assess the railroads of New Jersey. A board was appointed to assess them. They said it was absolutely impossible, because, considering one line of railroad as a unit, you could not ascertain the value of that; you would find it practically impossible on any rules that would apply to the assessment of property. The first thing I did was to hire a corps of men. I paid them some $40,000. I found out the cost of reproducing every railroad in the State of New Jersey; what it would cost to cut through the hills and make the fills and build the roads. I then said, "I will go into the markets of the world and find out what they are willing to pay, and then I will subtract one from another and I will find out what the State has given."

Bishop SPALDING. You do not assess them at their full valuation.

Mr. MCDERMOTT. Well, they said in that element of remainder

there are the vagaries of financial difficulties, and wars abroad and that sort of thing, and therefore we will take an arbitrary figure of 55 per cent. It was sustained after two years of litigation; that is, the rule and the assessment were sustained.

Now, I would not find any trouble, in my judgment, in ascertaining the truth in relation to the Reading Railroad and the Reading mines. The Reading road is the one that fought in the strike I am speaking of, through the Central Railroad of New Jersey. The Central Railroad of New Jersey really owns the Wilkesbarre mines. It was really the Reading road.

Mr. DeForrest and other counsel appeared there in the fight. I do not think there would be any trouble in finding out what the relations of capital are to the mines or to the railroads in the State of Pennsylvania. Then taking, not some sensational view of capital, but taking the true relation of production of profit from those mines to investments, you could tell the people whether they could afford to pay the wages asked.

Mr. VREELAND. Is there any fixed rule, Mr. McDermott, as to how much invested capital ought to be paid in this business or any other business?

Mr. MCDERMOTT. My judgment is this: If I could wipe out the usury law I would wipe it out——

Mr. VREELAND. I would like to ask you the same question I asked Bishop Spalding. A permanent tribunal would be governed by its own precedents, or ought to be; they could not make a decision which would go on record this way to-day and then make a contrary decision to-morrow. They would have to follow some line of decisions which would appeal to the reason of the people. Then, must they not fix under the same condition the returns, we will say, which capital should receive?

Mr. MCDERMOTT. They must do that. Capital's proper earning has some relation to the usury laws. Where a road like the Reading Railroad is constructed it is constructed generally by giving bonds of the contractors, and a certain amount of stock as the road goes on in earning capacity.

The stock dividends are issued and the stock increasing, going from millions to millions, it is very difficult to find what the true rule should be as to earning capacity, especially when you come to consider that that stock passes from the first hands and goes into second hands. If you take the man who issued $10,000,000 of stock to build a $2,000,000 plant and say to him "We will subtract your $8,000,000, because it is watered," what does he reply? He says that that water has passed into the hands of innocent holders. The Government authorizes the issuing of it and therefore should protect it. I should say that the interest laws, being the judgment of borrower and lender to a great extent in each State, the average of interests laws would come very nearly settling what is a fair return for money. Take that and take the other great investments of the average holder of five, ten, or twenty thousand dollars, buildings used for rental, take those and I think you can come to a fair idea of what money should pay.

Mr. GARDNER. Mr. McDermott, right there, my recollection is that some two years ago, when you had introduced your first bill, we had a discussion exactly on the point which you are on now—as to the relative merits of the permanent board and the temporary board—and that the most forceful objection urged at that time to the permanent board was

that a permanent board would be guided by permanent rules, would have rules of procedure, would make case law, and would attempt in each to be guided too much by its previous decisions; that the result would be to build up sort of a government policy; that that board would decide in some given case what the rate of profit ought to be under all the circumstances of that case; that that would go into the record. The next time the board had a case to try the case might be entirely different, but there would be that principle right there, and there would be a tendency, by a line of decisions, to establish by case law in the commission the rate of profit on investments of capital where the employees might strike. Was not that one of the evils that we were most afraid of?

Mr. McDERMOTT. Not only that, but it would render your commission after a little while useless, because you would have laid down these rules and the people would say: "I am not going to submit my side to those rules."

Mr. GARDNER. Again, it led on, if I remember rightly, to this: That the commission, acting in time of depression and when no property was paying largely, would settle a controversy over in West Virginia under a low rate of profit, and under different circumstances would settle a controversy in Pennsylvania on the basis of a higher rate of profit to the company. The result would be greater agitation before Congress than ever has been to secure legislation overruling some decisions or some rules of the commission itself.

Mr. McDERMOTT. There would be immediate dissent the minute there was a difference. But also this. For instance, a commission that would be proper to settle a great railroad strike, the personnel of it being selected with reference to that particular strike, would be useless when it came to some other kind of a strike.

Mr. FOSTER. Will you permit me to call your attention to that provision of this bill, Mr. Chairman, that the President may appoint two special members?

Mr. McDERMOTT. Yes; that would be a good thing, and meet that objection.

Mr. FOSTER. May I also ask if the statement made involves this idea: That this organized tribunal would give less attention to the special details of each particular case than would a special tribunal, and that their decisions would be colored more by precedent than by actual evidence in the particular case?

Mr. GARDNER. They would be somewhat in the nature of a court. I am only recalling conclusions reached in what attempted to be a discussion of the merits of the two. If I remember rightly it was brought out then that a permanent commission would be inclined to follow its own precedents as all courts do, and that while they would not give less attention they would be more subject to their own records; that if they decided, as I have said, in time of depression and difficulties on a rate of profits in one case and another rate of profit in another case, that that would be attacked by interested parties.

Now, the public never fully informs itself in a matter in which it is not interested. The case is over; the commission has acted; it drops out of the public mind in a general way; but if a railroad thinks it has been injured, and the decision of the tribunal is inconsistent with previous rulings of the same tribunal, it will be attacked, and this will beget doubts in the public mind. Whereas if it was a new commission, drawn from the best men, presumably, that could be gotten for the

purpose, they would have no record to bind them and they could not be attacked for inconsistency—now, bear in mind it is not the commission whose aid you are invoking to settle strikes; it is voluntary, and the great tribunal after all is the public—the new commission try to settle that particular case. In doing it, with all the light it could get in the environment around it, the condition of the country at that time would be taken into consideration by that tribunal and they would settle it in the wisest manner under all the circumstances, and that would be the end of that for them.

That commission would not be attacked because it had not decided like any other commission might have decided at some other time. But with a commission deciding two cases, legal ingenuity could draw out inconsistencies in the two decisions, and the permanent board would be attacked on and on and on by those who got the worst of the decision. That was a line of thought that, I think, prevailed in that line of discussion.

Bishop SPALDING. In the first place, where both parties submit their cases to this tribunal nothing is published.

Mr. FOSTER. Unless the parties consent.

Bishop SPALDING. Unless they consent; and in the next place, I do not think that a commission or tribunal, if it bases its decision on profits and things of that kind, would have to publish its reasons. In giving the anthracite decision we did not give reasons; there is nothing there that would lead other tribunals to decide by precedent. We simply made our decision.

Bishop SPALDING. The first I think this tribunal would do would be to declare that it would not lay down precedents, that they would not go into the principles of political economy, but simply take the facts as they come.

Mr. VREELAND. The facts about what, Bishop?

Bishop SPALDING. About the actual situation. A court that would lay down principles of political economy and then try to base its decisions on them would, as has been suggested, not last.

Mr. VREELAND. In any great strike are not the two great points what amount of profit is being made and what proportion each party is getting? Is not that the first great proposition to find out in any strike?

Bishop SPALDING. In the anthracite strike we did not go into the question of profits.

Mr. CONNER. They did not raise that question?

KNEW NOTHING ABOUT PROFITS.

Bishop SPALDING. No. We knew nothing about that and know nothing about it to this day. We based our decision upon the conditions of work there, and the wages paid, and other things, and we did not explain to the public what our decision was based upon. We came to a conclusion after knowing the facts, and that is what every commission would have to do.

Mr. HUGHES, of New Jersey. You did not lay down principles which would rise up to confront you in another case?

Bishop SPALDING. No, sir; we did not.

Mr. MCDERMOTT. After you had given ten decisions if I could not

find out the mental rules that governed you I would consider myself dumb indeed.

Mr. VREELAND. Unless each decision was a system of give and take, trying to give to each side something of what they claimed.

Mr. GARDNER. I would like to ask one more question. I would like to know if anybody here knows of any instance in the history of the world where a permanent board has failed to make its own previous rulings or precedents or to have embodied them in a rule or set of rules which bound the commission to a considerable extent? Is there an instance in history of a board which failed, and failed in a year after its organization, if it had anything to do, to establish rules which resulted in binding the board very largely to its own precedents as to setting up permanent methods of its own procedure?

Mr. HUGHES, of New Jersey. This bill provides that it may make those rules.

Mr. FOSTER. Yes; they make their own rules.

Mr. GARDNER. There is no case in the world, for we looked for it. And, strange to say, the same damnable thing happened in the Commission. It made a stretch to prove that it had not been done, to justify themselves for not doing it, but it had not gone six months until a faction grew up that began to force in rules.

Mr. MCDERMOTT. I think you may take a board like this in any State in the Union and you will find it has been a failure, except in one or two instances, which would have been settled by a special board. As a board I have never seen a permanent board successful.

Mr. VREELAND. Why do you think they failed? You say that all of our State boards have failed. They have failed before they started in business because they have been men of no particular force or men who have simply been appointed as a reward for political service, in whom people have had no confidence—have had no confidence in their ability to take up these questions. Is that the fact, or is it because they have been permanent boards?

PERMANENT BOARD IS MENACE TO LIBERTY OF CAPITAL AND LABOR.

Mr. MCDERMOTT. It is the fact that they are permanent. They are a permanent menace to the liberty of capital, to the liberty of labor. No man likes to feel that if he is going to make a movement either to better his capital or to better the value of his labor there is some board at the capital that can come in and prevent him from doing so. A man likes to be free in his actions, and the fact that you have created a board of this kind discredits the board immediately; the fact that the board is there as a permanent proposition antagonizes capital and antagonizes the minds of labor. If I, for instance, am engaged in interstate commerce, and I propose to take certain steps, I do not propose to take them subject to some permanent board, and the very permanency of the board as a bureau, with its clerks and secretaries appointed because of political recommendations or influence, subtracts from the influence of that board. My idea of the special board is that it is better because it is a special creation. It investigates, and then it reports and goes out of existence. It will have that standing, in my opinion, that will be of some use, and after careful research I have come to the conclusion that that is all the Federal Government has a right to do.

Mr. VREELAND. You have not examined Mr. Foster's bill along that line? It follows the interstate law pretty closely.

Mr. MCDERMOTT. You might make it a condition of interstate commerce; you might make it a condition precedent to the entry of interstate commerce that any labor dispute should be submitted.

Mr. GARDNER. Could you do that? The National Government and the State government differ widely, one being a government of granted powers and the other of inherent powers.

Mr. MCDERMOTT. It is only by tacking it onto the interstate commerce proposition. I hope if any such power exists at all it will be taken away. I do not want to say it does exist. I do not believe in compulsory arbitration.

Mr. FOSTER. You do not understand there is anything of that kind in this bill?

Mr. MCDERMOTT. No, sir, no; but if you have the right under the interstate commerce clause of the Constitution to enforce arbitration, necessarily you must have the right to enforce your decree.

Bishop SPALDING. But in your opinion it would be extremely rare; the President would be called upon only rarely.

Mr. MCDERMOTT. Probably only once in five years.

Bishop SPALDING. Take that trouble in Colorado. Would that be interstate?

Mr. MCDERMOTT. I think so.

Bishop SPALDING. Anything could be made interstate.

Mr. MCDERMOTT. I think you can take any great system of mines, iron or coal, and say that they would come under interstate commerce. Or you could take the wheat fields and say that anything disturbing the natural movement of the products there becomes an interstate proposition. I think the courts hold that. The coal from Pennsylvania, of course, goes into many States, and it is an interstate proposition—a question of interstate commerce.

It was with the idea of meeting the conditions then existing that I framed this bill. I was very glad that the President took the step he did, although I do not suppose he ever saw the bill. Nevertheless he took the step that the bill provided for and eventually settled the strike. I had some hope that it would be settled before, because I recollect after the Grand Army of the Republic got here we had to burn slate and brick and oil and tar to keep the city lighted, all of which detracted from my value as a receiver.

Mr. FOSTER. Do we understand that one of the chief objections to this bill is that political influence would govern in the appointment of the members of the tribunal?

Mr. MCDERMOTT. I do not see how you could get away from that. It is not merely the appointment, because many men holding important offices are appointed—for instance, our Chief Justice of the United States is appointed because of political influence, and we are a nation of parties. What I am afraid of is this: You have a permanent board and it becomes a political bureau. It is bound to be political in its appointments and in its investigations. If the majority is Republican it will listen more kindly to a suggestion from the Republican Senators from Pennsylvania than from the Democratic Senators from Georgia. So you see it is bound to have that political environment—although I am not attacking your bill, and I have not studied

it sufficiently if I wanted to, and am here simply to revive suggestions made two years ago.

Mr. VREELAND. Do you want to be heard next Wednesday?

Mr. MCDERMOTT. After reading the testimony I may want to say a few words.

Mr. VREELAND. Do you know whether Mr. Gompers wants to be heard next Wednesday?

Mr. FURUSETH. He wants to be heard before the close of the hearing

(Thereupon, at 1.15, the committee adjourned until Wednesday, April 13, at 10.30 o'clock a. m.)

WASHINGTON, D. C.,
Wednesday, April 13, 1904.

The subcommittee met at 10.30 o'clock a. m., Hon. Edward B. Vreeland in the chair.

STATEMENT OF MR. ANDREW FURUSETH.

Mr. FURUSETH. Mr. Chairman and gentlemen of the committee, the purpose of this bill, the title of which is "to create a national arbitration tribunal and to define the duties and powers thereof," is to stop strikes, so that all its terms will have to be read with that central purpose always in view.

It provides for a tribunal of six members, and the Secretary of Commerce and Labor as an ex officio member, the latter to be without a vote. They are to be appointed by "the President, by and with the advice and consent of the Senate." One of them is to be appointed each year, as one other completes the term of six years for which each is appointed. They shall have power to hear and determine all controversies "concerning wages, hours of labor, or conditions of employment between employers * * * and employees in which a strike or lockout is threatened or exists, in which controversy there is involved any commerce with foreign nations, or among the several States, or with the Indian tribes, or * * * within any of the Territories of the United States, or the District of Columbia."

The tribunal shall—

investigate privately (unless both parties consent to a public investigation) the matters and things involved in said controversy, determine the merits of the same on the basis of right and equity, and render its decision thereon, which decision shall be definitely and distinctively an affirmative or negative decision of each of the claims of both parties to the controversy, respectively: *Provided, however*, That said tribunal, of its own motion, may make additional findings and recommendations for the purpose of adjusting such controversy.

In addition to sitting in private the tribunal may publish as much or as little of the testimony as it shall think proper, as much or as little of the correspondence as it shall choose, after having obtained the consent of the parties to publish anything at all, unless one or both shall refuse to abide by the decision, in which case it is to publish whatever it shall deem proper as a penalty; or where one party has submitted the controversy and the other shall refuse to confer jurisdiction by also submitting, then it shall publish such refusal as a penalty, along with such other matters as it shall deem proper.

The tribunal is to acquire jurisdiction by the parties to any controversy granting the same by submission. If one party shall refuse it will be compelled, it is hoped, by public opinion. If both should refuse—something almost unthinkable—then the tribunal may, after endeavoring to obtain jurisdiction, give such information as it shall think proper.

Public opinion is to compel submission of jurisdiction. Public opinion is to enforce the decision.

The tribunal is to decide who is in the wrong, and to furnish to the public, in order that it may have an opinion, its decision along with such other data as the tribunal shall think wise and useful, and both parties shall agree to. If it shall be refused the opportunity to ascertain who is wrong, then it shall inform the public of who stands in the way, and that will give to the public the presumptive evidence of who is in the wrong.

The public being, it is thought, prejudiced, too busy, interested, too careless, or perchance incapable to make up its own opinion, is by this tribunal to be corrected, assisted, and guided. In substance, this tribunal is to furnish the public with an opinion ready-made.

In doing so it is to "determine the merits of the same on the basis of right and equity." In other words, it is to apply to industrial disputes, as it understands them, the religious and moral principles as understood by it. This tribunal, which is to be supreme, from which there will be no appeal, is to act according to its spiritual light and to appeal to the religious or moral—that is, to the spiritual—force in society. Then what is this tribunal? It seems to me to be the Roman censors under a new name. This tribunal is theocratic. Its members are, in the highest meaning of the word, priests.

What is public opinion in the sense in which it is here considered? It is the public conscience, the aggregate of all the individual consciences; it is the aggregate of individual spirituality, which, when really individual, and therefore healthy, is said to be the voice of God.

Public opinion. Will it be strong enough to stop strikes? Who can doubt it? It was this force which made it possible for the Roman Emperors to slay Christians by the millions, and which, changing around, made Constantine the first of the Christian Emperors. It kept the Roman arena as a festival, yet abolished it after the self-sacrifice of Telemachus. It supported and was the strength of the spiritual power which compelled the Emperor of the Holy Roman Empire to debase himself at Canosa; it made possible the imprisonment of the Pontiff in France. While the temporal and spiritual powers were apart, it permitted the guilds to grow, and, when together, they were killed by legislation. It sent the populace to the auto da fé as to a festival, and later crowned with oak leaves the champions of freedom of conscience. It made possible the success of the revolution of the American colonies; it burnt witches at Salem. It deprived the negro of his humanity, and later poured out seas of blood and untold wealth to reestablish it. It gave force and effect to the emancipation proclamation and wrote into the Constitution the thirteenth amendment.

It sent the Nazarene to the scaffold, and, later on, recognizing His divinity, made of that scaffold a sacred emblem. It is the spiritual force, when guided by men, known as the spiritual power. "Grasp the spiritual scepter and thy crown shall shine like the sun" is a legend found on a prison wall in Europe.

In the struggle between the spiritual and the temporal powers which raged for centuries it was made abundantly plain that unless these two powers could be united there was no possibility of reestablishing that absolutism which had been the strength and pride of Rome until disintegrated by the spiritual solvent poured in upon it by the doctrine of human brotherhood, human equality, and human sympathy derived from Christian teachings coupled with that fierce desire for human freedom which was characteristic of the barbarians of the north.

While the struggle was progressing the wilderness was made to bloom, cities were built, industry developed, chivalry was instituted, and churches were erected. Kings were respected by their people, if personally they deserved respect, and in return they respected the rights and liberties of the people and generally observed such guarantees to preserve "the rights and liberties of the people of the realm" as they had sworn to maintain and protect.

When through the alliance of these two powers there arose the dogma of "divine right," the formerly intense activity amongst the people began to wane. Continental parliaments became mere recording bodies to register the king's will; first losing the power to determine war or peace, then the power over taxation and expenditures, and finally the power to refuse to register the king's decrees. The king was supreme, the people his property.

In Britain alone did the Parliament retain the power over the purse, and from that power, judiciously used, arises all the freedom now enjoyed by the British people.

"Redress our grievances and we will furnish supplies" were the terms laid down and lived up to; and thus, the King knowing that supplies might be refused, and the people feeling that they each year had a remedy by and through which they might destroy the very Government itself, there gradually developed that political democracy which has made England the political model of other countries.

The right to petition the Crown for redress of grievances and the right to withhold supplies, along with a gradually developed public opinion arising out of the freedom of speech and the freedom of the press in that country, caused freedom to broaden down from precedent to precedent, until there are people who consider the English Government the most democratic in the world, the one most responsive to popular will.

The popular will, knowing that it could assert itself, knowing that it could express itself in statutes binding upon the king, had no fear of him, but this knowledge made the people to feel the responsibility of such power and to act with that care which can only come from such knowledge and responsibility. Thus has been developed that conservatism in the making of new law, in the gradual development and tentative absorption of new ideas, together with the respect for the common weal and the obedience to law, only found among a people that feel themselves to be really free. Otherwise it is with a people which feels its freedom lost. It becomes saturnine, suspicious, treacherous, and then dull—dull as the ox, but also fierce and relentless as he. Having been reduced to mere animal existence the human qualities atrophy, and the very power of a real human life becomes more and more impossible until some catastrophe brings death or regeneration.

The CHAIRMAN. I beg your pardon, but what is this?

Mr. FURUSETH. I am trying to describe the results upon human

society of the coming together of, the uniting of, the spiritual and temporal power existing in society. I hold, sir, that this bill is that in its essence. It provides for that.

The CHAIRMAN. I thought you were describing some actual condition somewhere. This is a hypothetical case?

Mr. FURUSETH. No, sir; it is not, really. What I am saying here I think can bear investigation as being absolutely historical.

Ill fares the land where those at the bottom are losing or have lost hope. To take away the power of self-defense is to take away hope, and that is what the enactment of this bill would do, if it meets with the success which its sponsors claim for it. It is nothing less than the abolition not only of strikes but the very possibility of strikes, through the focusing of the public anger upon those whom such tribunal shall determine to be responsible for them.

Mr. WHITNEY. Do you believe that the bill will absolutely prevent strikes and lockouts?

Mr. FURUSETH. I do; not in the beginning.

Mr. WHITNEY. But in the end?

Mr. FURUSETH. That is exactly what it will do. It will do exactly what was accomplished by the statute of laborers in England under the operation of the quarter sessions.

Mr. FOSTER. May I ask you why you leave out lockouts?

Mr. FURUSETH. Because that is simply the other side of the shield.

Mr. FOSTER. But you believe that it would be also effective in stopping lockouts as well as strikes?

Mr. FURUSETH. It will stop lockouts, I presume, except in so far as—and that is not called a lockout, and would not be—except as a man running a business would close it down.

Mr. GOMPERS. Would another question interfere with your train of thought?

Mr. FURUSETH. Not at all.

Mr. GOMPERS. When you say if that bill were enacted into law it would stop strikes and lockouts, do I understand you to say that it would absolutely stop strikes and lockouts or that it would ultimately tend to the enactment of a law seeking to stop strikes or lockouts or to make them unlawful?

Mr. FURUSETH. I should think it would do both; but I am dealing with this bill purely as it now stands, having within itself, giving within itself certain powers that men agree to, and I am dealing with the weight that public opinion will have. I look upon this bill as transforming public opinion—as seizing upon it, as using it.

What is a strike? It is quitting work in combination to enforce a petition for redress or to resent additional grievances being imposed. It therefore has its origin on the mental plane. The reverend Bishop assented to it being defined as being "indicative of an effort on the part of the wage-earners to realize, practically to materialize, some higher standard of life which they had intellectually and morally evolved"—to change the existing order of things. The truths of the concepts of the fatherhood of God, the brotherhood of man, and man's body being the temple of God are penetrating the mind of the wage-earning class—somewhat unconsciously, it is true, but penetrating nevertheless—and he applies the power of nonresistance to change the existing order of things to make it conform to the newly developed ideal.

The distinguished gentlemen who have come before you in support of this bill believe that this tribunal—this new priesthood—will use its power to assist in this development by justly and mercifully, as if inspired, concentrating, focusing, upon either or both the spiritual force in the country, and thus do without the strike what the strike is assisting in doing. In this I think them entirely mistaken. I find no instance of any permanent advancement having been made by the race or by any class thereof except through suffering. We have been compelled to buy by the sweat and blood of man and the tears of women every advance made. This power may not be used as the excellent gentlemen are expecting; nay, it is sure to be used otherwise.

When the bishop was asked, "In the question arising about the division of profits from industry what rules are to govern, the rules laid down in the decalogue or the ordinary rules of business?" he answered that he presumed that the rules really were the same. To another question as to who should be considered first in this division he said, "Man first, the accumulation of property second." Thus there is no question but that he expects the rules of the decalogue to govern.

If this new priesthood are not to be the ministers of a new religion, then it must be that the existing priesthood are not doing their duty, and that we despair of inducing them to do it. This is manifestly not the fact, because the bishop says, "man first." This is the very core of the Christian religion. The bishop is himself the living evidence that our present priesthood stands for it. If this is to be the main thought of the new priesthood it would manifestly be useless.

If such tribunal be established it will not be simply an annex of the old. It will serve some new god. It will develop, focus, and guide some new, or apparently new, ideal.

The line upon which political equality has been developed in England in a peaceful way is the line logically followed by industrial democracy in its evolutions, if permitted to develop naturally.

The struggle in modern society is between industrial absolutism and industrial democracy. The Christian ideal of human equality is seeking to extend itself in upon the industrial field and is meeting a power grown so great that it has to a large extent seized upon the state and is using its power for its own purposes. It controls, in a large measure, the churches through the pew, institutions of learning through endowments, the press through its advertising columns, the education of the young through the school boards; it is expurgating the poets of the past, or suppressing them, through the great publishing houses; and if this tribunal be created it will, through it, seize upon and focus the general public opinion in such ways as shall make it serve where the state can not, or where it might be unwise to exert the power of the state.

The public is annoyed and inconvenienced by any strike, but more especially so when the strike occurs in transportation. Its first thought is, "Why don't they settle these differences?" and it blames some walking delegate. There is a disposition to look upon the whole thing as a nuisance which ought to be suppressed by law. Finding in some way that the strikers have sacrificed their employment, and with it the bread of their children, it gradually is prevailed upon to look into the facts, and if by looking it finds that a real injustice is done, that there is a real grievance, then, and not until then, is any sympathy aroused for the strikers.

In all such cases the strikers must first overcome resentment, then inertia, and must then have a cause good enough to convince upon the most casual investigation. Grievances that are not sufficiently simple to be thus easily understood, yet serious enough to cause men to risk their all to obtain redress, are sure to be brushed aside with a contemptuous anger at those who for no better reasons are stopping the regular flow of business to the great inconvenience of the public. Being busy and interested, it will gladly accept the ready-made opinion from this tribunal, which, we will suppose, has before it a case in which the employer shows that if he can not have a reduction he must close up, and thus throw the helpless, landless wage-earners on the street in utter destitution. Their very concern for the men will induce their action. That something is better than nothing will be the guiding idea, and the reduction comes, to be followed by another and another and another as the purchasing powers of the wage-earners are diminished, going the same way that was trodden by the operation of the statute of laborers in England. The judges sitting in quarter sessions were probably good and humane men, but the tendency was downward, downward, downward, until to preserve the race it was seen to be absolutely necessary to adopt some other way.

Modern industry is a complex machine and is easily thrown out of gear. The operations of the steel corporation may be stopped by the miners, seamen, blast-furnace men, rolling-mill men, or railroad men, if either could organize well enough to stop their part of the work.

This, too, would have to be considered by the tribunal. The needs of the public would be the main thought. So that the first consideration would be to *keep going, to protect the existing order of things*, and thus leave the wage-earner where he now is, with this exception, tha the drift of public opinion through the molding being done by the Christian truths is now shaping the future so that he may toil on in hope.

It is customary to say that the age is materialistic, and in a sense that is true. It is charged that as a people we worship wealth. I am afraid that this is but too true. Is it not this god which this new priesthood will be compelled to serve?

It is to be composed of men who have "died to the small things of life;" such is the hope of Mr. Foster. So no doubt it will be, but how does he know what they will consider the "small things?" They may not agree with him as to what are "small things."

Let us remember that they are to be appointed by the political power, they are to live in a political atmosphere, they are to associate with the human products of wealth, they are to have children to marry and provide for, they are to be surrounded on every hand by the representatives of industrial absolutism, *they are to stop strikes;* and yet the gentleman thinks that they will remain humane? Truly, the gentleman is fatalistic in his optimism.

Mr. FOSTER. Would you not be willing to have the word "lockout" follow the word "strike" in every case all through this?

Mr. FURUSETH. Yes, sir.

Mr. FOSTER. So that the stenographer may insert the word "lockouts," so as to make it read "strikes and lockouts," wherever you have used the word "strikes," and let them go together?

Mr. FURUSETH. I do not object to that. I do not see any particular objection to that; although, as a matter of fact, I understand that—that

is understood all through. But I am dealing with this from purely the workman's point of view.

Mr. FOSTER. And you believe positively that the effect of this bill would be to stop strikes?

Mr. FURUSETH. I have not any doubt about it myself. Not to-morrow, or next year, or next year after that, but in the development of ten or twenty years it will not only stop strikes, but it will stop the possibility of a strike, in my opinion, and for these reasons: You begin at the school and you follow it through literature, and then here you have got the ready-made opinion given to the public, which is too busy—or too interested, if you please—to inquire when it has got somebody to inquire for it. It can not be assumed—it is certainly not assumed by me—that you can develop here a power absolute in itself, responsible to no one, governed by rules of its own, and have them apply to industrial affairs, to industrial disputes as they understand them, the spiritual power as they understand it, and yet remain uninfluenced by the power of their surroundings. Why, they would have to be gods, Mr. Foster, they could not be men.

Mr. FOSTER. Would not this tribunal be responsible to the same force that they invoked, namely, public opinion?

Mr. FURUSETH. No; they would cultivate that force, they would determine that force. They would gradually do in industry and for industry what the Pontiff does for Christianity in its Catholic aspect.

Mr. FOSTER. Do you not believe, Mr. Furuseth, that that culmination of evils of the fourteenth, fifteenth, and other early centuries to which you have referred was the result of the whole condition of the time, the environment, you might say, the historical soil in which these men grew; and do you think it fair to compare those historical conditions and culminations to what may transpire in the twentieth century?

Mr. FURUSETH. I believe, sir, that the same principle that was at work then is at work now. I believe that as in the early middle ages there gradually developed, and at first in a healthy condition, what is known in history as feudalism, based upon the ownership of land, the occupation of land, then the existing visable wealth of the world; so there is now developing in society another feudalism, an industrial feudalism, based upon the now visible wealth of the world, which is the industrial production that has come about through the mastery over the forces of nature.

Mr. FOSTER. Has there been any material historical period when there was less evidence of a tendency to feudalism than there is now?

Mr. FURUSETH. Certainly; certainly. There have been periods in history where the tendencies have been setting all the other way, toward freedom. The tendency now is from freedom.

The CHAIRMAN. Where?

Mr. FURUSETH. Here.

Mr. WHITNEY. You think, then, this bill would have a tendency to stop socialism?

Mr. FURUSETH. I do not know that. I have not looked upon it from that point of view. The socialist propaganda is based upon an entirely different concept of life. It is based upon a concept that the ownership of a mine, a mill, a factory, or a means of transportation carries with it, as such, the ownership of so much labor power as will make that means profitable to its owner. The socialist accepts that, and upon

that premise he then goes on to say that in order to restore human freedom to man it is necessary to make all means of production and distribution public property.

Mr. WHITNEY. You referred to the Roman censors. Do you raise that objection, that it will have that tendency?

Mr. FURUSETH. I do. They represented the spirituality of Rome.

Mr. WHITNEY. As I remember it——

Mr. FURUSETH. Now, I am standing here to do, to the best of my ability, what I can to prevent industrial absolutism, and to prevent the employing class from seizing upon the spiritual force as well as it is endeavoring to seize upon the State, and to a large extent has seized upon it, for its own use. And if it should appear that with all this machinery to train the mind—the school, the literature, and this new priesthood—the wage-earners would yet refuse to pay proper deference to the existing order of things, and they should still continue to disturb industry with their "unreasonable clamor," then the rest of the people would finally be induced to permit the reintroduction of involuntary servitude, by either amending or—and this has been tentatively done already—construing away the thirteenth amendment to the Constitution.

We beg of you, gentlemen, to condemn this bill.

Mr. FOSTER. May I ask if you discovered in the careful reading of the bill, which I am certain you have given it, any bias toward either of the interests involved—that the bill is written in the interest of either of the parties that would be affected?

Mr. FURUSETH. In my remarks I have said the very opposite. I have said that you, the author of the bill, assume that this new priesthood will use their spiritual power in the advancement of the Christian ideal. I simply dispute that fact. I say that they will use their power to protect, to develop, that which we now know as the worship of wealth.

Mr. GOMPERS. Before you leave that, for a moment. Mr. Foster asked you whether you believed that the bill was designed with any partiality to either the one side or the other side. I think you, as well as those others who are representing labor in this combination against the bill, admit the honesty of purpose, or do not dispute the honesty of purpose.

Mr. FURUSETH. Certainly I do not. I have just said so.

Mr. GOMPERS. It is just the tendency of the bill which you oppose?

Mr. FURUSETH. I have said so, yes; as strongly as I could. I have no idea that there is any purpose in this bill to enslave the working people. But I do say, and say again, that if this tribunal is established it will inevitably be used for that purpose.

STATEMENT OF MR. E. F. DUBRUL.

Mr. DUBRUL. I want to say, Mr. Chairman, that a great deal of the very forcible argument of Mr. Furuseth meets my views exactly, from the other side of the labor question, purely as a labor question.

Mr. FURUSETH. I almost doubt my own reasoning, then.

The CHAIRMAN. I am glad to see capital and labor standing together.

Mr. FURUSETH. I was just saying quietly to myself that I doubt almost my own reasoning, now. [Laughter.]

Mr. FOSTER. You had better.

Mr. FURUSETH (continuing). After what the gentleman has said, almost. [Laughter.]

Mr. DUBRUL. I think we will get at it, though, from a little different point of view. The bill, as I am perfectly willing to admit and as Mr. Furuseth has admitted, is no doubt an honest attempt on the part of the authors of it and the advocates of the bill to do something to stop strikes.

Mr. FOSTER. And lockouts.

Mr. DUBRUL. And lockouts. And I have not any doubt but what, carried away with the idea that the public have a personal interest in the relation between employer and employee, this idea spreading around through the country as it has been doing, that they think it is time for the public to step in and take a hand in the game. They are asking for this bill for the purpose of stopping strikes and lockouts. I am not so sure as Mr. Furuseth is that it will have that effect.

Mr. GOMPERS. There is where I agree with you.

Mr. DUBRUL. That it is one thing in which Mr. Furuseth and I will differ.

Mr. FURUSETH. If it would have that effect, would you be in favor of it?

Mr. DUBRUL. I would not. I stand rather in the position of Abraham Lincoln, who said "Thank God for the right to strike;" and I want to say "Thank God for the right to lock out," by the same token. Not on the part of the men who strike for the purpose of crushing industry or putting their employer out of business, as so many of the radicals who strike express it, and not on the part of the men who lock out for the purpose of crushing their laboring men, but, on the part of both of them, to defend what is properly theirs and what has been so from the beginning of British and American liberty; and on that I am with you.

I do not believe that this bill or any other bill of this sort is going to have the effect of compelling men to give up what they feel is inherent in them, and which the spirit of all our institutions from both sides of this question has said is inherent in them. I am not in favor any more than Mr. Furuseth is of a ready-made public opinion. I do not believe that all the industrial commissions, all the coal-strike commissions, all the monetary commissions on earth are going to settle the industrial, the labor, or the monetary question to the satisfaction of the people. They may have some influence, but it is as these things hit men in their own personal interest, one after the other, becoming affected this way and that way and the other way, until finally public sentiment is crystallized; and it is better and more practically crystallized, not by a ready-made opinion handed down, as Mr. Furuseth says, by almost a divine tribunal, but by the working of the social and economic forces right through the people who are personally affected.

There has been a whole lot of talk about strikes. The right reverend bishop who appeared here said that a strike is hell, and so it is very often, just as much as war is hell, and that is as appropriate as to talk about war being hell; and all the international voluntary tribunals for arbitration between nations are not going to stop war, and they never will.

The CHAIRMAN. Should we stop all efforts in that direction, then?

Mr. DUBRUL. No; we can not stop our efforts. No; that is all right to go along and settle these things as peaceably as we can.

The CHAIRMAN. Would it be advisable if we could succeed in that?

Mr. DUBRUL. No; I do not think so.

The CHAIRMAN. It is better to have war once in a while?

Mr. DUBRUL. No, sir; but I believe it is better to have the spirit that may make war and make it justly and effectively than to have an absolutely peaceable condition, or rather a spirit of nonresistance. The history of humanity is a history of struggle, as Mr. Furuseth has pointed out, and everything that has been gained by humanity has been gained by struggle, and the struggle grows only more severe according to the conditions it has to meet. But while we can not legislate people into happiness and sweetness——

The CHAIRMAN. When do they make their progress, during the time of war or during the peace that follows?

Mr. DUBRUL. The nations make their progress, certainly, in the time of peace; and still, unless they have the final appeal to the cause of war, the nation would be of very little account. That is my personal opinion.

The authors of this bill have no doubt the feeling that the inconvenience to the public caused by strikes is sufficient justification for such legislation as this; but if there ever will be a time for such legislation it is not in my judgment the present time at all, nor will it be the time until things crystallize to a great deal larger extent than they have to-day, so that we will know whither we are trending.

I do not think that the strike is the question. Let us analyze the common acceptance of a strike. If you were to say to the average laboring man that strikes are not the most creditable method of settling a labor dispute, he will say, as Mr. Furuseth has said, that a man has a right to quit work whenever he sees fit. That is an unquestioned right; it is a right that no legislation can deny, and I do not believe that it is a right that it would be wise to attempt to limit in any way. This is a bed-rock principle.

The CHAIRMAN. Do you think this bill limits it?

Mr. DUBRUL. I am coming to that. That part of it is a bed-rock principle. A collective body of individuals has a right to quit work, just the same as the individual has. Of course I mean in the absence of contract. That has been laid down by the Anthracite Coal Strike Commission as a principle, and as an abstract principle it is undoubtedly correct. I do not know whether this definition of a strike will meet the views of the unions, but it seems to me it is a good one:

> A strike is an organized refusal on the part of laboring men to continue at work until some demand or petition upon an employer has been granted.

And there is no question that in many cases such an organized refusal is perfectly correct. But the question that it seems to me gentlemen like Mr. Foster and Mr. Whitney and others who are not directly engaged in either the labor of producing goods by the power of the hand and the machine or the other part of that labor by the directing forces of the brain do not get at is this—this is the element that you want to get at: It is the way that strikes are made effective. That is the evil. Certain claims are set up in every strike, which, if allowed, destroy the definition of a strike which I have just quoted.

Mr. FURUSETH. What are those claims?

Mr. DUBRUL. Strikers, in my experience, invariably take the position that they are still employees of the firm or the person they have struck against. I have been through the picket line, and I have heard

the arguments used. This is an essential feature; it is a matter of common knowledge. Without that provision their strike is doomed to failure as long as men can be had to take the place of the strikers and as long as there is no interference with what Vice-Chancellor Pitney, of New Jersey, ruled on—the right of men not to be made uncomfortable.

Mr. FURUSETH. Will you allow me a question right there?

Mr. DUBRUL. Yes.

Mr. FURUSETH. Will you take away the right of those men who have left your employ to appeal to other men——

Mr. DUBRUL. No, sir.

Mr. FURUSETH (continuing). Not to go into your employ?

Mr. DUBRUL. No, sir; but I would take away the right of their appeal like this [shaking his fist under the nose of an imaginary adversary]: "Look here; we are out on strike there." That is the sort of appeal that I would take away—the shaking of the fist and the threat and the intimidation.

Mr. FURUSETH. The threat of what?

Mr. DUBRUL. The threat of personal violence?

Mr. FURUSETH. The intimidation of what?

Mr. DUBRUL. The intimidation of personal violence and making them uncomfortable in their employment.

Mr. FURUSETH. Making them uncomfortable? What do you mean by that?

Mr. DUBRUL. I mean this. I feel that as an American citizen I have a right to go and come as I please.

Mr. FURUSETH. Yes.

Mr. DUBRUL (continuing). As long as I interfere with no one else's right in that direction; that according to our Constitution and laws, it should be my privilege to work—which you do not agree to, perhaps—when, where, and how, and on what terms *I* please.

Mr. FURUSETH. Certainly I agree to it.

Mr. DUBRUL. If our terms are agreeable to you, and you and I combine not to accept other terms, that is our privilege; but we must not interfere with the right of another man to exercise his privilege.

Mr. FURUSETH. Not even by persuasion?

Mr. DUBRUL. Possibly by persuasion, if there was such a thing——

Mr. FURUSETH. And using circulars?

Mr. DUBRUL. I do not question the right of persuasion nor the right to use circulars, but——

Mr. FURUSETH. How are you to get at the man who has not read the circulars nor heard the arguments nor been at the meetings, except by putting out a picket line and quietly asking him to listen to you—persuading him?

Mr. DUBRUL. But you do not *quietly* ask him.

Mr. FURUSETH. If we do not quietly do this, then call in your police, but do not call in the judiciary, as you advocate doing here.

Mr. DUBRUL. That is what I am coming to. I am coming to that exactly. Now, if this theory of the strike, that the ex-employee has still a hold on his job, as they have told me, and I have gone through the picket line——

Mr. FOSTER. Does it disturb you to ask you questions?

Mr. DUBRUL. Not very much.

Mr. FOSTER. No; I judge not. Do you deny that there is any moral

obligation on the part of the employing institution toward these employees that have gone out on the strike—these people, if you will permit me to add this, who have been for a number of years the employees of the particular institution—of the particular craft—when they are on a strike? Is there any moral obligation that would affect the adjustment of the differences?

Mr. DUBRUL. Supposing that I were engaged by you as a clerk, or in any other capacity. You and I individually have a difference. I am not satisfied with my employment with you. I leave you. I do not think that there is any moral obligation on your part in connection with me any longer.

Now, if the right to quit work collectively is just the same as the right to quit work individually, which I think it is, there is no more moral obligation. If there is a moral obligation on the part of the employer toward these employees they have no right to quit collectively, which is a proposition I deny.

Mr. FOSTER. One moral wrong would not justify another.

Mr. DUBRUL. What?

Mr. FOSTER. One moral wrong, if it were committed, would not justify another?

Mr. DUBRUL. That is an abstract proposition.

Mr. FOSTER. Very true.

Mr. FURUSETH. Since when have the employers become so conscious and tender about the rights of the workmen that they necessarily must prevent them from being interfered with?

Mr. DUBRUL. I do not know, Mr. Furuseth. Maybe you can answer that better than I. You have been in this part of the work longer than I have. If they have such a consciousness, which I believe they are getting, it is a good thing.

Mr. FURUSETH. Is it not a virtue arising, by your own argument, out of their self-interest?

Mr. DUBRUL. All business questions, all industrial questions, arise more or less out of self-interest; but there is an enlightened and well-balanced self-interest as well as a shortsighted and foolish self-interest, and I hope we will all tend to use more the enlightened self-interest on both sides of this proposition than to appeal to the baser motives—to appeal to the better motives rather than to appeal to the baser motives of self-interest.

The CHAIRMAN. You have six minutes remaining.

Mr. DUBRUL. Then I would like to have no further interruptions from the gentlemen until I get done.

Now, basing it on this, it seems to me that the best thing we can do for the public is to say this: There is a function for the public to perform under the present method under which strikes are conducted, and that is to confirm and crystallize and work upon the public sentiment without any legislation in that respect, but to work on their enlightened self-interest to see that the picket line is not threatening violence, and so forth. The whole evil comes from that. That is the tap root of all the present-day strikes.

I had a man come to me a short time ago—he was a machinist——

Mr. DAVENPORT. May I ask you what is your position—what organization you represent?

Mr. DUBRUL. I am commissioner of the National Metal Trades Association.

Mr. FURUSETH. And at present walking delegate for them?

Mr. DUBRUL. Yes; for the employers in that business, I am a walking delegate.

This man came to me and said, "I think there is room for a better kind of union." I think these gentlemen will admit that no human institution is perfect, and there is always room for improvement, and this was that man's idea of it—to work through a man's self-interest; to make a man's personal character much more than at present a requisite for membership in the unions, and to devote a large proportion of the time and attention of the unions to the personal education of these men, showing them a better way to make money, and making them more competent, and giving them a wider and better vision, and making better men of them.

I talked over with him his plan in particular. I asked him "How about the strikes; would you eliminate from that sort of union the right to strike?" He said, "Never; the right to strike is fundamental. But," he said, "I would eliminate the picket line and the boycott and the violence and intimidation." I said, "Do you think you could be successful in carrying on a strike with such a union as that?" He said, "When that sort of a union left an employer for cause—collectively—anybody who wanted that job could have it, and there would not be any difficulty in the members of that union getting jobs anywhere else."

That is the strike as defined—the theoretical strike.

Mr. FURUSETH. The condition would be so bad, in other words, that no human being could be expected to stand it? All right.

Mr. DUBRUL. That is the theoretical strike. The actual strike is the thing that these worthy gentlemen, like Mr. Foster and Bishop Spalding, who see the evils, are striking at. But they do not strike at the taproot, which is the violence and the breaking of the law.

This thing is being corrected. You will find all over the country organizations arising, law and order leagues in their essence, called citizens' alliances. They are organizing all classes of the communities. They arise only in communities where the citizens have suffered from this violence and lawlessness.

Mr. FURUSETH. Why not call them by their real name, "vigilance committees?"

Mr. DUBRUL. Law and order leagues, citizens' alliances, vigilance committees, if you will.

Mr. FURUSETH. Usurping the functions of the State.

Mr. DUBRUL. I beg your pardon; they provide, in every constitution I have seen, for respect of the laws of the State and of the United States. And if they go against that they can be brought to book for it.

Mr. FURUSETH. So, then, they charge all the judges and juries and grand juries and sheriffs with inefficiency and incapacity and——

Mr. DUBRUL. Not necessarily. They are upholding the attempts of the sheriffs and the grand juries and the juries to uphold the freedom of action. There is the taproot; there is the thing for the dear public to work on. There is the thing for those to look to who may be indirectly affected. In my strike you may be a part of the public, and in your strike I may be a part of the public, and it is the same way with the laborers; we are all a part of the public when the laborer is in controversy. But the thing which must stand out in all this is the keeping in mind of the personal security, of the personal freedom, as guaranteed in our institutions, and then, when we recognize that, I

believe there is more chance for men to agree when they stand around the same table and talk about the same things, when they use the same words with the same meanings; and until then I do not think there is any chance for even voluntary arbitration, except to use this ready-made public opinion.

STATEMENT OF MR. SAMUEL GOMPERS, PRESIDENT OF THE AMERICAN FEDERATION OF LABOR.

Mr. GOMPERS. Mr. Chairman, you will no doubt observe how peculiar it must evidently be when you find Mr. Davenport and Mr. Dubrul and the representatives of organized labor, from widely divergent standpoints, agreeing in opposition to the bill. I want briefly to take cognizance of a few of the statements made by Mr. Dubrul, and just as briefly as I possibly can, in consideration of the limited time and an engagement which I must meet as soon as possible.

By reference to the hearings before the Senate Committee on Education and Labor on the eight-hour bill, you will find there that I submitted for the consideration of the committee a number of the official journals of the unions, showing diagrams and plans and problems in each of the industries in which the members are engaged, gotten up by specialists in designing, in forming, in framing, and in creating, in helping the men of the trades to become more efficient and more practical and more competent workmen. That was done to supply what is an evident need to every observer—the deficiency which too many workmen now labor under of only knowing a part or an infinitesimal portion of the trade, by reason of the division and subdivision and specialization which has gone on in industry.

As a matter of fact, the organizations of labor publishing official journals supply that very information which Mr. Dubrul contends is not given by the organizations of labor.

Mr. DUBRUL. I beg your pardon; it is not given as much as some men would like to see it; that is all.

Mr. GOMPERS. Mr. Dubrul did not so qualify his statement before.

Mr. DUBRUL. I was quoting another man.

Mr. GOMPERS. And further, by his statement, he would have the committee believe that nothing of that sort is being done. When he says it has not been done to the extent that some would like to see it done, I assume he has in mind trade schools rather than our trade unions; and we make of our trade unions the paramount purpose to be of mutual help to each other, and the making of a better workman is part of the work that the unions now do—supplying that which modern industry has deprived the workman of, by reason of the causes that I have already mentioned.

There is not a thing that organized labor can do but what it will meet with the same antagonism—it does not make a particle of difference what they do—from Mr. Dubrul and his associates. Even when we ask for relief in a perfectly lawful manner and through the only means which the law prescribes by which we can secure relief—at the hands of the Congress of the United States, or any of the State legislatures, or from any of the municipal bodies—we there are met with the same kind of opposition from these our momentary allies in this opposition to this bill. And when I say "allies," I say we are unconsciously and temporary allies at this moment. But I resent this, that in appearing

before this committee in opposition to the bill Mr. Dubrul will, like his associates, always extraneously and unnecessarily drag in the old, old, and oft-repeated charge of the criminality and the unlawful conduct of the organizations of labor; and I want to call attention to the fact that the so-called citizens' alliances and associations for the enforcement of law and order are to-day outlawed by the courts of Colorado.

Mr. DUBRUL. If they are outlaws they deserve it.

Mr. GOMPERS. They are outlaws by the courts of Colorado, and a writ of habeas corpus issued by a competent court of jurisdiction of Colorado within these past forty-eight hours has been set at defiance under the direction of your law and order leagues and citizens' alliance of Colorado.

Mr. DUBRUL. How about the murders in the mines?

Mr. GOMPERS. Then catch the murderers and hang them, but you have no right to invoke any law but the criminal law to try men for crime.

The CHAIRMAN. Do I understand that martial law has been declared up there in Colorado?

Mr. GOMPERS. Yes; in Telluride men have been arrested without any charge of any crime having been alleged against them and held without any process of law, and the courts have issued writs of habeas corpus——

Mr. FURUSETH. And they have been deported.

Mr. GOMPERS. Yes; and they have been deported, and the courts have issued writs of habeas corpus for the production of these bodies, so that the courts may inquire into whether these men are legally or illegally detained and deprived of their freedom, and men have been deported from the State of Colorado by armed forces; and if there be any man who can point out to me any law which would warrant any such procedure I think I shall have little further to say in advocacy of the cause which I have espoused.

But what I have just said is simply incidental, simply to meet these attacks which are made by our "allies" upon us, and which we are required to meet everywhere, because our friends and allies, the enemy, constantly repeat these charges in the hope that some of it will stick.

However, I want to address myself to the bill under consideration. I am in entire accord with almost everything that my friend Mr. Furuseth has said to this committee. There is one thing in which I disagree with him, and that is where he says that this bill or any other bill which the Congress of the United States could pass would stop strikes and, I suppose, anticipating the question of Mr. Foster, "lockouts." You may by legislation outlaw them; you may make them illegal; you may send men to prison; you may go further than that bill——

Mr. FOSTER. Under our Constitution for a strike?

Mr. GOMPERS. I do not see the connection of your question. But I say, gentlemen, you can not and will not stop strikes by law. There was a time, in the days to which Mr. Furuseth referred, when to strike, when for two or more men jointly to ask their employer to increase their wages or protest against a reduction in wages, when for two or more men to make any such representation to the employer, was a conspiracy in the law, and was so regarded, and they were sent to jail.

The CHAIRMAN. English law?

Mr. GOMPERS. That is the English law; yes, sir; and it was the law of the States in the United States since the adoption of the Constitu-

tion. Under the old English law men were not only sent to jail if they quit their employ, but they were whipped, they were branded, and they were *hanged*. That did not stop strikes; they struck, and they took the consequences for themselves, that others might enjoy the freedom and the opportunity that we now enjoy of the choice to improve our condition.

I dissent from the view expressed by Mr. Furuseth that the bill will have the effect of preventing or eliminating strikes; but you will make them unlawful and you will accentuate the differences. These men have been brought up for a century and a quarter of the history of our country under the belief that they have this right, and this is transmitted to our children and our children's children, and you may outlaw these men in the exercise of their natural right, but you will not prevent them from taking that lawful and natural action among men to protect their lives and advance their interests.

The CHAIRMAN. Are you talking about the effect of this bill now?

Mr. GOMPERS. I am expressing my dissent from the view given by Mr. Furuseth that the bill would, and the tendency of this legislation would be to, prevent strikes.

The CHAIRMAN. You do not mean that this bill would make them unlawful?

Mr. GOMPERS. No; not directly; no. But I have not the slightest notion—I can not dream of such a condition of affairs—that the Congress of the United States would pass the bill in its present apparent voluntary condition. I can not believe that the Congress would pass, even if it did pass a bill which in its essence was the same as that which is proposed and is now under consideration by this committee, that would not be improved upon at subsequent Congresses. And I say "improved" in the worst sense in which it can be applied, for already in these hearings you will have noticed where our friend Mr. Maddox, in questioning Mr. Foster upon this bill, says:

> I confess that is true morally, but we do not want to go into child's play; we want them to be legally bound, if we do anything at all.

He is speaking of the unions when he says, "We want them legally bound."

Further on Mr. Maddox, in connection with a statement by Mr. Foster, says:

> I would not hardly think that, because I am in hearty sympathy with the movement—if we can ever do it—

That is, arbitration—

> to make it binding; if we can make it successful, I would like to see that done.

That is a statement made by Mr. Maddox, a member of this committee.

Now, I presume that some one has had the hearing of Mr. Foster for revision, for I find that it is very frequently italicized, and I am under the impression, from what I know of these hearings, that neither the stenographers nor the secretary of the committee, nor the members of the committee itself, italicize any statements of the gentlemen making arguments before the committee. Mr. Foster, in one of his statements —which I presume he has italicized—says:

> The conflict always involves the arousing of malice, hatred, and murderous intent.

I want to say that that is a misunderstanding of strikes.

Mr. FOSTER. You are speaking of lockouts always at the same time, are you?

Mr. GOMPERS. If Mr. Foster, who is so powerful a linguist, will rest content with making his own argument, and not only italicizing his own points that he wishes to bring to the attention of the committee and to the attention of those who read the report, but also undertaking to italicize statements made by some one other than himself, I think he will do us a little better justice, and permit us to make our own statements in our own way, even though it may be uncouth or ineffective. I think when we have said that we do not attribute to the authors of this bill any sinister purpose, that ought to stand for itself.

We contend against the passage of this bill because of the history of such legislation, the history of the attempts of the States to undertake the regulation of the conditions between the employer and employee, and because we know the consequences that have come, and against which the working people have been compelled to contend and contend because the alliance of the employing class with those in power has always been toward the denial of liberty to the working people, and that denial of liberty going to the extent to which I have referred, of sending men to jail and the incurring of physical punishment and even death as the consequence.

During the last hearing, and when I was engaged before another committee of Congress on a bill of great importance, a statement that I made, or was supposed to have made, was much harped upon, and that was in reference to strikes; and erroneously I have been quoted as saying (or comments have been made upon what I was supposed to have said) that strikes are a good thing. I think I have always tried to make it clear that strikes ought to be avoided as much as possible. I do not think that there are many men in this country who have done more to try to prevent strikes than I have. I do not think that there are many men in this country who have prevented and avoided and evaded strikes more than I have.

Mr. FOSTER. I believe that to be true.

Mr. GOMPERS. And I do not believe I ought to be placed in a false position by a man so eminently fair as Mr. Foster so as to convey the idea that I did say at any time that strikes were a good thing. There is quite a contrast between believing that strikes are a good thing and the position of believing that all strikes are so ruinous that they ought to be stopped by law. That is the difference.

I agree that strikes ought to be avoided, and I know of no human agency that will have the tendency to diminish the number of strikes so much as the organization of the workmen in their unions and their preparation for strikes. I do not believe that it is possible to eliminate strikes from our industrial history, from the industrial field, so long as men will have divergent interests in the buying and selling of labor power. But their number can be diminished. The bitterness with which they are contested can be reduced and minimized.

What is a strike or a lockout but the buyer and the seller of labor power disagreeing as to the terms upon which that labor power shall be sold and bought? It is a cessation of those former relations, a cessation of industry in that particular line—if I might use the common

parlance of the street—for "a new deal," for new conditions under which labor shall again be performed, which is sold and bought. And the continuation of industry, the agreement, the maintenance of the industrial peace in an industry is largely determined not only by the power which the employer has, but by the new-found power which the workmen have developed by their association, and the assurance that their idleness, occasioned by the cessation of labor, will not be attended by starvation; in other words, by the knowledge that they, through their association in the times of industrial peace, have contributed something to buy them the merest necessaries of life during a period of cessation of labor caused by a lockout or a strike.

Strikes are not a good thing, but there are some things that are worse than strikes, and among them is a depraved or a degraded or a demoralized manhood. No man who loves his fellows loves contest and conflict; but I trust that the day may never come when the people of our country will not have the ability to defend their interests, their honor, and their good name.

We have established with other nations the international arbitration court at The Hague. It is voluntary on the part of any nation to submit the matter in dispute to the arbitration board or court. In the last analysis the right to fight for honor and interests and home is reserved to every country. And if perchance there was any fear that a country could be by any future policy coerced into an involuntary submission of her honor to an international court the present court would be dissolved by mutual consent. In the court at The Hague it rests upon the consent of every Government, the weakest as well as the strongest. Thus it is voluntary to the last degree. And so it is provided, apparently, in this bill, so far as labor disputes are concerned. But in the international relations of nations to the court at The Hague there is reserved to the nation not only the right but the power to enforce the right of withdrawal. That is not contained in the elementary features of this legislation that we are now considering.

While strikes should be avoided and evaded, I do not know of any one thing that could occur in any country on the face of the globe that has to-day had so wonderfully beneficial an effect as the strike of the miners last year and two years ago upon the miners. "No court of arbitration" it may be argued. Yes; but the improved conditions under which the miners in the anthracite regions now work are the result of the award given by the anthracite coal strike commission, a tribunal appointed by the President. Very true, but first had there been a tribunal appointed to investigate the conditions of the miners, had that tribunal been empowered to make an award, they would never have made an award so favorable to the miners as was made by the commission, not simply because of the justice involved in the demands of the miners, but by reason of the demonstration of the miners that they were willing to go hungry in order to impress it upon the minds of all that they were thoroughly in earnest in demanding the increase or improvement. The award was only possible after that demonstration and that strike. It would never have been given by any board, no matter how fair-minded such a board might have been, unless that demonstration or strike had been undertaken.

The greatest achievement ever made on the lines of international peace was made by the Government of the United States and the Government of Great Britain, without any court having been created in

advance. We have read in the newspapers within the past three days of a treaty having been made between the Governments of Great Britain and of France, removing almost every obstacle that stood in the way of maintaining international peace between those two countries. There was no court to establish justice, but this was the result of the growing of the great powers which each nation has vested in its own great people, and the growing conviction among men that peace ought to be maintained wherever it can be maintained, a conviction growing out of the self-interest and the mutual interests of the nations. And the same rule and the same elements are at work in the industrial affairs of our country, and we are having more of these arrangements, more of these agreements, more of these understandings with our employers, despite the antagonism of some employers toward our organizations, our unions.

I have said elsewhere, and I say it now, that we are living not only for the present. We are deeply interested in our day to bring about the very best possible conditions, but our work is confined not alone to the day. Our work and our institutions of labor are for to-morrow, and to-morrow, and to-morrow. Within a very few years we have organized more than two and a half millions of wage-earners of our country and federated them; and our labor movement in the United States is simply in its swaddling clothes. We are in our infancy; and despite the antagonism of Mr. Parry and Mr. Cushing and Mr. Dubrul and Mr. Davenport to the organizations of labor, many of whom denounce the organizations regardless of what they do or where they may be engaged in the performance of their work of carrying on the good work of organization and associated work, the organizations are going to grow. And though Mr. Parry and other employers are now antagonistic to us and will have nothing to do with us, Mr. Parry, to whom I do not wish any ill by any means—for I may say parenthetically that I bear no man ill will, but Mr. Parry can not live always—even Mr. Parry and his associates will come to some agreement with us some day, for in the natural course of events they with us—with me—will join the great majority. But the organizations of labor will live and grow, and then we will have either Parry & Company or, if the firm name does not change after the present head dies, perhaps we will have Parry & Company as an organized shop, with organized labor.

As I said a while ago, what I said some time ago was interpreted to mean something hostile toward Mr. Parry; but I said what I did then in the same spirit as I have said what I have just said here—that is, that Mr. Parry can not escape us; we are going to be in agreement with him sometime, or with his house, and with all employers.

I look for industrial peace, Mr. Chairman and gentlemen, coming out of the undesirable strike—if you please, out of these strikes, and out of the discord; not the hatred or the bitterness or the murderous intent that Mr. Foster suggested to the committee as resulting from all these strikes. I agree that too often bitter feeling finds its vent in strikes and lockouts; but after nearly every one of these contests, when agreement is reached between the employers and the organizations of labor, the feelings of cordiality and mutuality between the employers and the workingmen have grown, the desire to be helpful to each other is greater, and you have not implanted in the hearts of the workmen

the idea—the notion—that they have been deprived of their lawful, their constitutional, or their natural inherent rights.

Now, I want for a few moments to say something in regard to strikes that I think is justified by some of the statements that have been made here before this committee, and by a misunderstanding as to what I had in mind when I stated that the right to strike ought not to be interfered with, and when I said that there was a philosophy in strikes not generally understood. And now I want for a few moments to read to you a part of the report which I had the honor to make as the president of the American Federation of Labor to the Boston convention upon that subject. (Reading:)

STRIKES, AND FUNDS AS A PREVENTATIVE.

During the year a considerable number of strikes occurred. From reports made to our office, compiled and enumerated in the secretary's report, it will be observed that the gains achieved in the interests of our fellow-workers were considerable—advances in wages, reductions in hours of labor, and improvements in other respects—and that but comparatively few of the strikes inaugurated were defeated in the objects sought. Much of the expenditures reported because of strikes were made during last year. It will be observed, too, by reference to the table that many organizations have gained large advantages while they have expended infinitesimally small amounts. These are particularly attributable to the organizations referred to having accumulated funds and systems of beneficial features which have given them such stability and resourcefulness that employers were more willing to concede reasonable and fair demands rather than at the outset risk losses which they know result from long drawn-out contests.

Then further on:

More strikes are avoided and averted by thorough organization and preparation for them than by any other known means.

There is a most erroneous impression prevalent regarding losses occasioned by strikes, to which attention is invited. Of course it is true that a strike involves the loss of work and wages for the time being, but there has not one strike occurred but it has been followed by greater activity in the trade. In other words, the time for the performance of the work and the payment of the wages has been deferred—that is, that the stoppage in the trade has been made to suit the convenience and the purpose of the workmen, rather than the convenience and purpose of the employer.

A strike involving wages, hours, and other conditions of employment, even if temporarily defeated in the attainment of the immediate purpose, has always checked greater invasion on the part of the employers, or has paved the way for the ultimate achievement of the object sought by the workmen.

Now, here I want to call the attention of the committee to this particular point that I make:

Taking the strike as an economic or social factor, it has never been lost. For men contending against deterioration or for improvement, if, say, they lose the strike, what occurs?

Those occupying a higher material condition do not displace those engaged in the contest. If they are displaced at all it is by those whose conditions are poorer or are unemployed, and taking the worst view of the situation, it has been merely a change of personnel of those occupying the relative positions.

But the truth is, and the entire history of industry has demonstrated it to be a fact, that the workers who have intelligence and manhood enough in their makeup to contend against the imposition of poorer or to strike for better conditions never go down in the economic scale.

In other words, though the workmen may be defeated in the immediate contest, their character, perseverance, and ability always make for the next highest rung in the industrial ladder.

I submit, Mr. Chairman, that the thought to which I have given expression in that report is not generally understood nor accepted, but I commend it to the consideration of men who are studying the indus-

trial and economic and social conditions and development of our country.

Mr. Chairman, as I said a moment ago, it is not so much this bill alone as it is the whole species of attempts of this character, of which we are apprehensive, and justifiably apprehensive; for we have the history of industry and the suffering and the sacrifices before us, which men have had to bear on account of these interferences, or attempted interferences, in the relations as to wages and hours and differences and disputes and disagreements between workmen and their employers.

There is one other matter that I wanted to read from a case, No. 334, of the October term, 1896, in the Supreme Court of the United States, Robert Robertson et al., appellants, *v.* Barry Baldwin, being an appeal from the district court for the northern district of California. Mr. Justice Brown, delivering the opinion of the court, said, in his opinion:

2. The question whether sections 4598 and 4599 conflict with the thirteenth amendment, forbidding slavery and involuntary servitude, depends upon the construction to be given to the term "involuntary servitude." Does the epithet "involuntary" attach to the word "servitude" continuously and make illegal any service which becomes involuntary at any time during its existence; or does it attach only at the inception of the servitude and characterize it as unlawful because unlawfully entered into? If the former be the true construction, then no one, not even a soldier, sailor, or apprentice can surrender his liberty, even for a day; and the soldier may desert his regiment on the eve of battle, or the sailor intermediate port or landing, or even in a storm at sea provided only he can find means of escaping to another vessel. If the latter, then an individual may, for a valuable consideration, contract for the surrender of his personal liberty for a definite time and for a recognized purpose and subordinate his going and coming to the will of another during the continuance of the contract—not that all such contracts would be lawful, but that a servitude which was knowingly and willingly entered into could not be termed involuntary.

Thus if one should agree for a yearly wage to serve another in a particular capacity during his life and never to leave his estate without his consent, the contract might not be enforcible for the want of a legal remedy or might be void upon grounds of public policy, but the servitude could not be properly termed involuntary. Such agreements for a limited personal servitude at one time were very common in England, and by statute of June 17, 1823 (Geo. IV, ch. 34, sec. 3), it was enacted that if any servant in husbandry, or any artificer, calico printer, handcraftsman, miner, collier, keelman, pitman, glassman, potter, laborer, or other person should contract to serve another for a definite time and should desert such service during the term of the contract he was made liable to a criminal punishment. The breach of a contract for personal service has not, however, been recognized in this country as involving a liability to criminal punishment, except in the cases of soldiers, sailors, and possibly some others, nor would public opinion tolerate a statute to that effect.

And in the dissenting opinion, delivered by Mr. Justice Harlan, he says:

In considering this case it is our duty to look at the consequences of any decision that may be rendered. We can not avoid this duty by saying that it will be time enough to consider supposed cases when they arise. When such supposed cases do arise, those who seek judicial support for extraordinary remedies that encroach upon the liberty of freemen will, of course, refer to the principles announced in previous adjudications, and demand their application to the particular case in hand.

It is therefore entirely appropriate to inquire as to the necessary results of the sanction given by this court to the statute here in question. If Congress, under its power to regulate commerce with foreign nations and among the several States, can authorize the arrest of a seaman who engaged to serve upon a private vessel, and compel him by force to return to the vessel and remain during the term for which he engaged, a similar rule may be prescribed as to employees upon railroads and steamboats engaged in commerce among the States.

Even if it were conceded—a concession to be made only for argument's sake—that it could be made a criminal offense, punishable by fine or imprisonment or both, for

such employees to quit their employment before the expiration of the term for which they agreed to serve, it would not follow that they could be compelled, against their will and in advance of trial and conviction, to continue in such service. But the decision to-day logically leads to the conclusion that such a power exists in Congress. Again, as the legislatures of the States have all legislative power not prohibited to them, while Congress can only exercise certain enumerated powers for accomplishing specified objects, why may not the States, under the principles this day announced, compel all employees of railroads engaged in domestic commerce, and all domestic servants, and all employees in private establishments, within their respective limits, to remain with their employers during the terms for which they were severally engaged, under the penalty of being arrested by some sheriff or constable and forcibly returned to the service of their employers? The mere statement of these matters is sufficient to indicate the scope of the decision this day rendered.

I thank you, gentlemen, for your attention.

ADDITIONAL STATEMENT OF MR. E. F. DUBRUL.

Mr. DUBRUL. If I may have just a moment, I want to correct the record in one particular, and I want also to call attention to some of the editing that has been done on some of these hearings. On page 13 of these hearings there is a headline that says, "International Business League favors the bill." On that Mr. Whitney says, "Here is a letter from the National Business League, which is a national business organization, and has a membership of the largest merchants of every State in the Union. There is a list of them on the back of the letter. This letter is from the secretary."

Now, I think it ought to be known that those are expressions of personal opinion only, except where these unions have put themselves on record either for or against the bill. Otherwise it is simply the mere personal opinions of the writers of these letters, and I do not think it is quite fair to put in a headline of that sort, which catches the eye, and is not exactly in accordance with the truth.

The CHAIRMAN. Is there any desire to have any further hearing on the part of anyone?

Mr. DAVENPORT. Of course I have already called the attention of the committee to some of the provisions of this bill; but there are certain general ideas underlying the whole subject which I would like an opportunity, either orally—I would much prefer orally—or if not, in writing, to submit. My idea of this bill, of course, is that it is an attempt to morally coerce the employers and the employees in industrial matters; that liberty which is essential to the life of all business is to be interfered with by the public. And that being the case I think it would be proper to present to the committee the injurious effects of any such device. Will the committee be in session to morrow?

The CHAIRMAN. I suppose not; there is no meeting called for tomorrow.

Mr. DAVENPORT. Will you have a regular meeting again?

The CHAIRMAN. I do not know whether it is the intention to have a meeting of the full committee again.

Mr. DAVENPORT. Then I would like to have the privilege of submitting to the committee some observations in writing on this subject.

The CHAIRMAN. We shall have a meeting of this subcommittee next Wednesday.

Mr. DAVENPORT. The subcommittee is the committee that I referred to.

The CHAIRMAN. Oh, yes, we will have further meetings of the subcommittee.

Mr. DAVENPORT. I would like an opportunity at that time of presenting those views; and if it is impossible for me to be here at that time, might I then submit them in writing?

The CHAIRMAN. Certainly.

Mr. FOSTER. Mr. Chairman, in order that I may economize your time, I would ask both for myself and for Bishop Spaulding, who is unavoidably detained to-day, the privilege of submitting some arguments and comments, in writing, to become a part of the committee's record.

The CHAIRMAN. There is no objection to that, I think, Mr. Foster.

Mrs. SMITH. Mr. Chairman, I desire to file a paper with regard to woman as an industrial factor and strikes as they affect women.

The CHAIRMAN. Under this bill?

Mrs. SMITH. Yes.

The CHAIRMAN. Very well.

(Thereupon the committee adjourned.)

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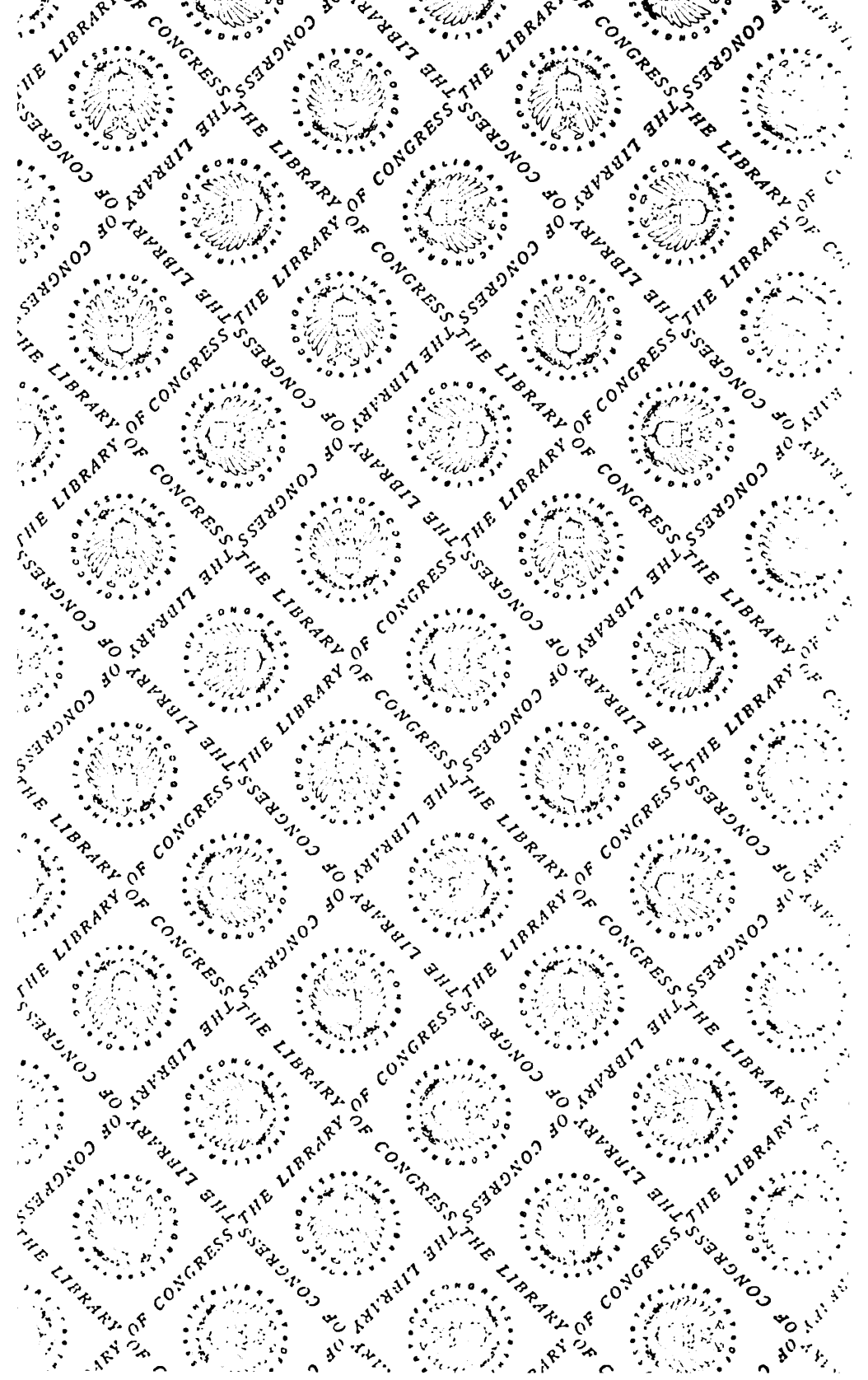
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